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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1210

[WRPA Docket No. 1; FV-91-253]

Watermelon Research and Promotion Plan; Amendments to Rules and Regulations

AGENCY: Agricultural Marketing Service (USDA).
ACTION: Interim final rule.

SUMMARY: This interim final rule amends rules and regulations issued under the Watermelon Research and Promotion Plan to clarify when the 90-day refund period begins for assessments paid by producers and handlers and specifies that, when requesting a refund, handlers must submit copies of a specified report, and producers must submit receipts or copies of receipts received from handlers on the date the producer's watermelons were handled.

DATES: Effective June 27, 1991. Comments which are received by July 29, 1991 will be considered prior to the issuance of any final rule.

ADDRESSES: Interested persons may submit written comments concerning this interim final rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, room 2525, South Building, P.O. Box 96456, Washington, DC 20090–6456. Comments should reference docket number FV–91–253 and the date and page number of this issue of the **Federal Register**. A copy of comments received will be made available for public inspection in the office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Richard H. Mathews, Marketing Order Administration Branch, F&V, AMS, USDA, room 2525-South, P.O. Box 96456, Washington, DC 20090–6456; telephone (202) 447–4140.

SUPPLEMENTARY INFORMATION: This interim final rule is issued under the Watermelon Research and Promotion Plan (Plan) (7 CFR part 1210). The Plan is effective under the Watermelon Research and Promotion Act (7 U.S.C. 4901–4916), hereinafter referred to as the Act.

This rule has been reviewed by the Department of Agriculture (Department) in accordance with Departmental Regulation No. 1512–1 and the criteria contained in Executive Order 12291 and has been detemined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened.

The Act and Plan provide that all producers (not including persons engaged in the growing of less than five acres of watermelons) and handlers of watermelons are subject to regulation under the Plan for watermelons produced in the contiguous 48 States. The Act and Plan provide that watermelon producers and handlers pay equal assessments for operating the program. The Act and Plan further provide that handlers are responsible for collecting and submitting both producer and handler assessments to the National Watermelon Promotion Board (Board), reporting their handling of watermelons, and for maintaining records necessary to verify their reportings.

There are approximately 750 watermelon handlers and 5,000 watermelon producers subject to regulation under the Plan. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $3,500,000 and small agricultural producers are defined as those having annual receipts of less than $500,000. The majority of watermelon handlers and producers may be classified as small entities.

This action would not have a significant economic impact on small handlers or producers. This action would benefit both producers and handlers by clarifying when the refund period starts and what documentation is acceptable for proving payment of assessments.

Section 1647(b)(2) of the Act (7 U.S.C. 4906(b)(2)) and § 1210.327(b) (7 CFR 1210.327(b)) of the Plan authorize the Board to recommend to the Secretary such rules and regulations as are necessary to effectuate the terms and conditions of the Plan. Section 1210.520 of the current regulations (7 CFR 1210.520) specifies the procedures for requesting refunds of assessments.

Based on the exeperience of its first year of operation, the Board believes that the wording in § 1210.520 is confusing and open to misinterpretation by watermelon producers and handlers. The Board believes that replacement of the word "payable" with the word "due" in the first sentence of § 1210.520 will clarify that the section is referring to the end for the month the watermelons were actually handled. The industry considers the payable date as being the thirtieth day following the month the watermelons were handled, which is the date by which handlers must remit their assessments to the Board.

Also, the Board recommended revision of § 1210.520(b) to clarify when the 90-day period begins for the submission of a refund application, by both producers and handlers. The Board believes that the current provision could be interpreted as meaning that the 90-day period begins on the actual day of handling; on the last day of the month of handling; on the handler's due date for paying assessments, following the month of handling; or on some other date. The Board wants to clarify the provision establishing when the refund period begins by specifying that the refund period begins for both producers and handlers on the last day of the month of handling.

While no refunds, in part or total, have been denied because of a misunderstanding regarding the beginning of the 90-day refund period, the Board believes this revision should eliminate the potential for refunds being denied because of misunderstandings of when the refund period begins. This revision is consistent with the requirements of the Act which provide that both producers and handlers be

given not less than 90 days to request a refund of assessments paid.

Also, the Board recommends that § 1210.520 be revised to specify what documents must be submitted by producers and handlers as evidence of payment of assessments when requesting a refund. As revised, this provision specifies that producers must submit a receipt, or copy thereof, received from the handler on the date the watermelons were handled. It further specifies that handlers must submit a copy of the handler's report which they submitted to the Board when they paid the assessments.

In compliance with Office of Management and Budget (OMB) regulations (5 CFR part 1320) which implement the Paperwork Reduction Act (PRA) of 1980 (44 U.S.C. chapter 35) and section 3504(h) of the PRA, the information collection requirements and refund application forms used under the provisions of § 1210.520 have been previously approved by the OMB under OMB No. 0581–0158. This action places no new recordkeeping or reporting requirements on producers or handlers.

Based on available information, the Administrator of the AMS has determined that the issuance of this rule will not have a significant economic impact on a substantial number of small entities.

Upon the basis of the evidence provided by the Board, it is found that this action, and all of its terms and conditions as set forth, will tend to effectuate the declared policy of the Act.

Pursuant to the provisions in 5 U.S.C. 553, it is found and determined that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) This action clarifies the provisions of § 1210.520 by specifying when the 90-day refund period begins; (2) specifying what documents need to accompany refund applications as evidence of the payment of the assessments; and (3) the 1991 crop year began in early April 1991 and any amended rules and regulations should be in place as soon as possible. All written comments received in response to this publication by the date specified herein will be considered prior to any finalization of this interim final rule.

List of Subjects in 7 CFR Part 1210

Agricultural promotion, Agricultural research, Market development, Reporting and recordkeeping requirements, Watermelons.

For the reasons set forth in the preamble, chapter XI of title 7 is amended as follows:

PART 1210—WATERMELON RESEARCH AND PROMOTION PLAN

1. The authority citation for 7 CFR part 1210 continues to read as follows:

Authority: 7 U.S.C. 4901–4916.

2. Section 1210.520 is amended by revising the introductory text, paragraph (b) introductory text, and paragraph (c) to read as follows:

§ 1210.520 Refunds.

Each watermelon producer or handler against whose watermelons an assessment became due and was paid pursuant to this subpart may obtain a refund of the assessment amount paid for any calendar month by following the procedures prescribed in this section.

* * * * *

(b) *Submission of refund application to the Board.* A handler or producer may request a refund of their assessments paid by submitting a refund application within a 90 day period beginning the last day of the month the watermelons were actually handled. The refund application shall show the following:

* * * * *

(c) *Proof of payment of assessment.* Evidence of payment of assessments satisfactory to the Board shall accompany the producer's or handler's refund application. Producers must submit a receipt, or a copy thereof, received from a handler on the date the watermelons were handled. Handlers must submit a copy of the handler's report filed when the handler paid the assessments. Evidence submitted with refund applications shall not be returned to the applicant.

* * * * *

Dated: June 21, 1991.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 91–15189 Filed 6–26–91; 8:45 am]

BILLING CODE 3410–02–M

Farmers Home Administration

7 CFR Parts 1951 and 1955

Certain Leaseback/Buyback and Disposal of Farm Inventory Property Provisions of the Food, Agriculture, Conservation, and Trade Act of 1990

AGENCY: Farmers Home Administration, USDA.

ACTION: Interim rule with a request for comments.

SUMMARY: The Food, Agriculture, Conservation, and Trade Act of 1990 (Pub. L. 101–624), hereinafter referred to as the "1990 Farm Bill," amends provisions of the Agricultural Credit Act of 1987 and therefore removes and revises certain provisions of the leaseback/buyback program as well as the procedure by which FmHA manages and disposes of suitable farm inventory property. The FmHA amends its regulations to conform to certain provisions of section 1813, "Disposition of Suitable Property," of the 1990 Farm Bill.

The intended effect is to facilitate keeping borrowers on their farm and ranch property, enhance the Agency's efforts to sell suitable farm property to family size farm operators, provide more guidance to the FmHA field staff, and implement the provisions of the 1990 Farm Bill.

DATES: Interim rule effective June 27, 1991. Comments must be submitted on or before July 29, 1991.

ADDRESSES: Submit written comments, in duplicate, to the Office of the Chief, Regulations Analysis Control Branch, Farmers Home Administration, USDA, room 6348, South Agriculture Building, 14th and Independence Avenue SW., Washington, DC 20250. All written comments will be available for public inspection during regular working hours at the above address.

FOR FURTHER INFORMATION CONTACT: Roger Witt, Branch Chief, Farmers Programs, Farmers Home Administration, USDA, room 5446, Washington, DC 20250, telephone (202) 382–1948.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under USDA procedures established in Departmental Regulation 1512–1, which implements Executive Order 12291, and has been determined to be nonmajor because it will not result in an annual effect on the economy of 100 million dollars or more.

Programs Affected

These changes affect the following FmHA programs as listed in the catalog of Federal Domestic Assistance:

10.404—Emergency Loans.
10.406—Farm Operating Loans.
10.407—Farm Ownership.
10.407—Low Income Housing Loans.
(Section 502 Rural Housing Loans)
10.416—Soil and Water Loans.

Intergovernmental Consultation

1. For the reasons set forth in the final rule related to notice 7 CFR 3015, subpart V (48 FR 29115, June 24, 1983) and FmHA Instruction 1940–J, "Intergovernmental Review of Farmers Home Administration Programs and Activities," (December 23, 1983), Emergency Loans, Farm Operating Loans, and Farm Ownership Loans are excluded with the exception of the nonfarm enterprise activity from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

2. The Soil and Water Loans Program is subject to the provisions of Executive Order 12372 and FmHA Instruction 1940–J

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969 (Pub. L. 91–190), An Environmental Impact Statement is not required.

Background

This document amends the interim rule published in the **Federal Register** (53 FR 35638–35798) on September 14, 1988, which implemented certain provisions of the Agricultural Credit Act of 1987. The 1990 Farm Bill amends the Agricultural Credit Act of 1987 and related statutes as it pertains to the leaseback/buyback program and the manner by which the Agency disposes of suitable farm inventory property. In accordance with the provisions of section 1813, "Disposition of Suitable Inventory Property," of the 1990 Farm Bill, the Agency is amending its regulations to be in compliance with the 1990 Farm Bill. Several of the changes required by section 1813 are as follows:

1. Paragraph (b), "Random Selection Among Equally Qualified Applicants." This provision provides that the County Committee will randomly select the purchaser of suitable farm property when there are two or more applicants that meet the loan eligibility criteria and deletes the requirement that the selection will be based on majority vote.

2. Paragraph (c), "Property Subject to Borrower Purchase or Lease Option." The Agricultural Credit Act of 1987 provided that the leaseback/buyback property consisted of all real property. The 1990 Farm Bill limits the leaseback/buyback property to that of real farm and ranch property, including the principal residence of the borrower.

3. Paragraph (g), "Offering Price." This provision deletes the conflicting provisions of the Food Security Act of 1985 that required farmland be sold at its capitalization value while the Agricultural Credit Act of 1987 required suitable farm property be sold at its market value. To resolve these conflicting provisions, the Agency offered farm property for sale at the lower of its capitalization value or market value. The 1990 Farm Bill deletes the capitalization value price. This provision removes the conflict in the statute and provides that suitable farm property will be offered for a value not greater than that which reflects the appraised market value of such farmland.

In the interim rule date September 14, 1988, FmHA implemented the leaseback/buyback provisions of the Agriculture Credit Act of 1987 by providing that the former owner had the first priority to purchase the real property that FmHA acquired from the former owner. In the event the former borrower was not the same individual as the former owner, FmHA would give a priority to the former owner to purchase the property, not the former borrower. If the borrower was the operator of the farm, the operator would have a priority to purchase the farm, if the former owner or the former owner's spouse and children did not exercise their leaseback/buyback rights. To implement the provisions of paragraph (c) of the 1990 Farm Bill and to ensure that the farm or ranch property will continue to have a residence for the operator of farm or ranch property, we have amended the definition of leaseback/buyback property to provide that the leaseback/buyback property consists of real farm and ranch property of the former owner, including any principal residence of the operator of the farm or ranch. This definition in the 1990 Farm Bill limits the scope of the property that the former owner will have a priority right to acquire from FmHA. In the event that the former owner's residence is acquired by FmHA, such residence is not a part of the farm or ranch property, and the former owner was not the operator of the farm, the former owner's residence would not be a part of the leaseback/buyback property. Likewise, if the former borrower's residence is acquired by FmHA; such residence is not part of the farm and ranch property, and the former borrower was not the operator of the farm or ranch property, the former borrower's residence would not be a part of the leaseback/buyback property. The leaseback/buyback property, however, would consist of any principal residence of the operator, if owned by the same individual that owned the real farm and ranch property. In most situations, the former owner is the former borrower as well as the operator of the farm. However, in the event the former owner, former borrower, and the operator are different individuals, and each reside in a separate residence which are all owned by the same owner, and no residence is considered a part of the farm or ranch property, only the principal residence of the operator would be considered as leaseback/buyback property. With this definition of leaseback/buyback property, it needs to be recognized that there may be a small number of cases where the former owner's residence is located on a nonfarm tract, is not considered a part of the farm or ranch property, and such owner is not the operator of the farm or ranch property. In such case, the former owner will not have a priority to purchase the property under FmHA's leaseback/buyback program; however, in the event the former owner is also the former borrower, such individual would have an opportunity, under FmHA's homestead protection program, to lease with an option to purchase the former borrower's residence and up to ten acres.

The Agency has temporarily suspended the lease and sale of certain real farm and ranch inventory property pending implementation of the 1990 Farm Bill. This document is being published as an interim rule with a 30-day comment period in order that the Agency can resume leaseback/buyback transactions where wetlands are not involved. Many of the farm properties in FmHA inventory will be leased or sold to the former owner and the former owner's family members. In order that the Agency can assist the former owner and the former owner's family members to remain on the farm and continue with their farming operations, for the 1991 crop year and beyond, it is important that FmHA has rules and regulations in place to expedite the lease or sale, in accordance with the provisions of the 1990 Farm Bill.

There are other provisions of section 1813 of the 1990 Farm Bill that require revisions to FmHA regulations but will be addressed in separate issuances of the regulations.

List of Subjects

7 CFR Part 1951

Account servicing, Credit, Loan programs—Agriculture, Loan

programs—Housing and Community development, Low and Moderate income housing loans—Servicing, Debt restructuring.

7 CFR Part 1955

Foreclosure, Government acquired property, Government property management, Sale of government acquired property, Surplus government property.

Accordingly, chapter XVIII, title 7, Code of Federal Regulations is amended as follows:

PART 1951—SERVICING AND COLLECTIONS

1. The authority citation for part 1951 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23 and 2.70

Subpart S—Farmer Programs Account Servicing Policies

2. Section 1951.906 is amended by removing the definition of "inventory property" and adding, in alphabetical order, the definition of "Leaseback/Buyback Property" to read as follows:

§ 1951.906 Definitions.

* * * * *

Leaseback/Buyback Property. Real farm and ranch property and any off the farm principal residence(s) of the operator(s) which secured a Farmer Programs loan. Any off farm principal residence(s) of the former borrower(s) and/or owner(s), who are not the operator(s) of the farm or ranch property, are not considered leaseback/buyback property.

* * * * *

3. Section 1951.911 is amended by removing the first two sentences and adding three new sentences to the beginning of the introductory text of paragraph (a), removing the first two sentences and adding two new sentences to the beginning of paragraph (a)(1)(ii) and revising paragraph (a)(2)(ii) to read as follows:

§ 1951.911 Preservation loan service programs.

(a) *Leaseback/Buyback.* This section contains the policies and procedures pertaining to the Farmer Programs Leaseback/Buyback Program. The Farmer Programs Leaseback/Buyback Program will permit the previous owner of real farm and ranch property, including any off the farm principal residence of the former operator, which was security for a Farmer Programs loan(s), to have the first opportunity to lease or purchase the leaseback/buyback property from FmHA. Any off the farm residence(s) of the former borrower(s) and/or owner(s), who are not the operator(s) of the farm or ranch property are not considered leaseback/buyback property, unless such residence(s) are a part of the farm or ranch property. * * *

(1) * * *

(ii) When FmHA acquires real farm and ranch property, including the principal residence of the former operator, which collateralized a Farmer Programs loan, the former owner will be sent exhibit O of this subpart within 30 days. The former owner has 180 days from the date FmHA acquired the real farm and ranch property, including any off the farm principal residence of the former operator, to apply for leaseback/buyback, unless State laws provide for a longer period. * * *

* * * * *

(2) * * *

(ii) Within each of the foregoing priorities, if there is more than one individual eligible for leaseback/buyback in any category who has indicated an intention, in writing, to the County Supervisor to participate in the leaseback/buyback program (e.g., one individual wants to purchase and the other individual wants to rent), priority within the category will be given to an individual who wants to purchase the leaseback/buyback property, either for cash or by credit sale. There is no preference for a cash sale over a credit sale. If there are two or more individuals in the same priority category who are eligible for leaseback/buyback who both want to purchase (or to lease if no one wants to purchase), the County Committee will make the selection of the lessee and/or purchaser by lot by placing the names in a receptacle and drawing names sequentially. Drawn offers will be numbered and those drawn after the first drawn offer will be held as back-up offers pending sale to the successful offeror. The random selection of the County Committee is not an appealable item for those individuals that are not the successful lessee and/or purchaser.

* * * * *

PART 1955—PROPERTY MANAGEMENT

4. The authority citation for part 1955 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23 and 7 CFR 2.70.

Subpart A—Liquidation of Loans Secured by Real Estate and Acquisition of Real and Chattel Property

5. Section 1955.3 is amended by revising the definition of "Leaseback/Buyback Property" to read as follows:

§ 1955.3 Definitions.

* * * * *

Leaseback/Buyback Property. Real farm and ranch property and any off the farm principal residence(s) of the operator(s) which secured a Farmer Programs loan. Any off farm principal residence(s) of the former borrower(s) and/or owner(s), who are not the operator(s) of the farm or ranch property, are not considered leaseback/buyback property.

* * * * *

6. Section 1955.18 is amended by revising paragraph (i) to read as follows:

§ 1955.18 Actions required after acquisition of property.

* * * * *

(i) *Leaseback/buyback.* The County Supervisor will notify the immediate previous owner of leaseback/buyback rights by sending exhibit O of subpart S of 1951 of this chapter, to the immediate previous owner, certified mail, return receipt requested, immediately after FmHA acquires real farm and ranch property, including any off the farm principal residence of the former operator, that secured an FP loan. The County Supervisor will notify the immediate previous operator of leaseback/buyback rights in accordance with § 1951.911(a)(1)(iii) of subpart S of part 1951 of this chapter by sending exhibit P of subpart S of part 1951 of this chapter to the immediate previous operator, certified mail, return receipt requested, immediately after FmHA acquires real farm and ranch property, including the principal residence of the former operator, that secured an FP loan.

* * * * *

Subpart B—Management of Property

7. Section 1955.53 is amended by adding, in alphabetical order, a new definition of "Leaseback/Buyback Property" to read as follows:

§ 1955.53 Definitions.

* * * * *

Leaseback/Buyback Property. Real farm and ranch property and any off the farm principal residence(s) of the operator(s) which secured a Farmer Programs loan. Any off farm principal residence(s) of the former borrower(s)

and/or owner(s), who are not the operator(s) of the farm or ranch property, are not considered leaseback/buyback property.

* * * * *

8. Section 1955.66 is amended by revising paragraph (h) to read as follows:

§ 1955.66 Lease of real property.

* * * * *

(h) *Lease of farm property with option to purchase.* Except for property that was pledged to secure a loan to an organization (as defined in § 1955.53 of this subpart), a lessee may be given the option to purchase farm property.

Terms of the option will be set forth as part of the lease as a special stipulation in accordance with the FMI for form FmHA 1955–20.

(1) The lease payments will not be applied toward the purchase price.

(2) The purchase price (option price) will be the appraised market value of the property. For farm property, the purchase price (option price) will be the market value of the property, as of the date the option is exercised, as set forth in subpart A of part 1809 of this chapter (FmHA Instruction 422.1).

(3) A lease with option to purchase to individuals with leaseback/buyback rights will be for a term not to exceed 5 years. For Preservation Loan Service Programs, refer to subpart S of part 1951 of this chapter. For those individuals that do not have leaseback/buyback rights, a lease with option to purchase farm property will normally not exceed 1 year but may be, in justifiable cases, for a period not longer than 3 years.

(4) If there is more than one prospective lessee that wishes to lease the property with an option to purchase, the County Committee will select the lessee/purchaser in accordance with § 1955.107 of subpart C of part 1955 of this chapter.

(5) Indian tribes or tribal corporations which utilize the Indian Land Acquisition Program will be allowed to purchase the property for its market value less the contributory value of the buildings, in accordance with subpart N of part 1823 of this chapter (FmHA Instruction 442.11).

(6) Denials of applications for or disputes over terms and conditions of a lease are appealable, pursuant to subpart B of part 1900 of this chapter.

* * * * *

Subpart C—Disposal of Inventory Property

9. Section 1955.103 is amended by adding, in alphabetical order, a definition for "Leaseback/Buyback Property" to read as follows:

§ 1955.103 Definitions.

* * * * *

Leaseback/Buyback Property. Real farm and ranch property and any off the farm principal residence(s) of the operator(s) which secured a Farmer Programs loan. Any off farm principal residence(s) of the former borrower(s) and/or owner(s), who are not the operator(s) of the farm or ranch property, are not considered leaseback/buyback property.

* * * * *

10. Section 1955.107 is amended by revising paragraph (c) to read as follows:

§ 1955.107 Sale of suitable property (CONACT).

* * * * *

(c) *Price.* Property will be offered or listed for its appraised market value based on the condition of the property at the time it is made available for sale. For farm property, the market value will be determined by an appraisal made in accordance with subpart A of part 1809 of this chapter (FmHA Instruction 422.1).

* * * * *

Dated: April 16, 1991.

La Verne Ausman,

Administrator, Farmers Home Administration.

[FR Doc. 91–15281 Filed 6–26–91; 8:45 am]

BILLING CODE 3410–07–M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 0, 1 and 2

RIN 3150–AD73

Procedures for Direct Commission Review of Decisions of Presiding Officers

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its rules of procedure to establish a new system for agency appellate review of decisions and actions of presiding officers in all formal and informal agency adjudications.[1] The Commission's prior decision to abolish the Atomic Safety and Licensing Appeal Panel which had provided mandatory administrative appellate review of initial decisions of presiding officers in agency adjudications necessitates the establishment of a new system. The new system provides for discretionary review by the Commissioners of the NRC of most partial and final initial decisions, referred rulings and certifications of questions.

EFFECTIVE DATE: July 29, 1991.

FOR FURTHER INFORMATION CONTACT: E. Neil Jensen, Senior Attorney, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555; Telephone (301) 492–1634.

SUPPLEMENTARY INFORMATION: This final rule (1) sets forth procedures for petitioning for Commission review of decisions and actions for which review is permitted; (2) establishes a standard which the Commission will employ in determining whether to take review; (3) codifies the existing case law standard for interlocutory review in revised § 2.786(g) and provides that this standard must be met for interlocutory appeals under §§ 2.718(i) and 2.730(f); (4) retains the Commission's current immediate effectiveness review procedure whereby designated licensing board decisions do not become effective until the Commission so determines; (5) makes clear that for all orders subject to judicial review a petition for Commission review is an available remedy for a disappointed party; and (6) incorporates the provisions of present § 2.762 into § 2.1015(c) (relating to licensing of a high level waste repository) which is otherwise unaltered by this rulemaking. In addition, this final rule deletes reference to the Appeal Panel or to appeal boards from NRC regulations. Finally, the NRC's regulations describing internal agency organization are amended to reflect the creation of a new Office of Commission Appellate Adjudication whose function is to assist the Commission in exercising its adjudicatory responsibilities.

This rule includes an additional amendment to 10 CFR part 2. This amendment adds a new § 2.8 entitled, "Information collection requirements: OMB approval." This section provides the OMB clearance approval authority for the existing information collection requirements in 10 CFR part 2, appendix B. The new § 2.8 is included in 10 CFR part 2 solely to correct a technical oversight in the regulations.

[1] For simplicity, these initial decisions will be referred to as licensing board decisions; however, all initial adjudicatory decisions are covered by this final rulemaking.

Background

On October 24, 1990 (55 FR 42947), the Commission published a notice of proposed rulemaking announcing its proposal to establish a new system for providing agency appellate review of initial decisions in all formal and informal agency adjudications to replace the system of mandatory review of initial decisions by appeal boards followed by discretionary review of appeal board decisions by the Commission. The Commission's need to formulate a new system was created by its earlier decision to abolish the Appeal Panel. The Commission proposed to adopt a system providing for direct discretionary review of licensing board decisions by the Commission and further proposed to adopt a broad review standard like that which applied when the Atomic Safety and Licensing Board was established in 1962, rather than the more narrow standard that the Commission has applied in determining whether to take review of appeal board decisions.

The Commission invited public comment on its choices and on necessary or desirable procedural changes incident to either system as well as on whether the Commission should make use of an existing organization or establish a separate office to assist it in performing its adjudicatory function. The comment period expired December 10, 1990. Seven comments were received: four from electric utilities or their counsel, one from an industry organization (Nuclear Management and Resources Council (NUMARC)), one from a public interest group (Ohio Citizens for Responsible Energy (OCRE)) and one from the Department of Energy. Copies of all comments received are available for public inspection, and copying for a fee, at the NRC Public Document Room at 2120 L Street, NW. (lower level), Washington, DC.

Summary of Public Comments

A. General

All industry commenters and the Department of Energy supported the Commission's proposals to adopt a discretionary review system and a broad standard of review. These commenters noted that this system would give the Commission the flexibility to involve itself only in cases requiring special Commission attention, such as cases involving novel, complex, or precedent-setting issues. This would enhance the Commission's ability to determine how best to allocate its resources to carry out its public health and safety functions. One industry commenter, while supportive of discretionary review in most cases, urged that review be mandatory in those cases where a licensing board and the NRC Staff hold conflicting views with respect to the issuance of certain types of authorizations because an internal conflict, in the view of the commenter, requires resolution by the Commission. This commenter also suggested that the Commission's immediate effectiveness rule be supplanted with a different procedure which would provide a definite time limit to the automatic stay now provided for licensing board decisions affected by this rule to help streamline the licensing process. OCRE objected to the Commission's decision to abolish the Appeal Panel and, absent reconsideration of that decision, favored mandatory review by the Commission. In OCRE's view, a mandatory review system would be the best means of securing direct Commission involvement in agency adjudications and would also be more fair to potential appellants in that all parties dissatisfied with licensing board decisions would be assured an equal degree of agency appellate review.

B. Commission Responses to Specific Comments

1. Abolition of the Appeal Panel

OCRE objects to the Commission's decision to abolish the Appeal Panel and asserts that this decision should not have been made without advance notice and solicitation of public comments. In addition, OCRE notes that Congress, in transferring the functions of the Appeal Panel to the Commission at the time it enacted the Energy Reorganization Act of 1974, required the Commission to notify Congress in advance of any decision to abolish the Appeal Panel. OCRE believes that the Appeal Panel served an important "separation of powers" function because it did not have the potential conflict of interest inherent in the Commission's dual function of being both an adjudicatory body and the supervisor of the NRC Staff which is frequently a party in adjudications before the Commission. OCRE states that it prefers the system of review by appeal boards where opportunity for oral argument is available to the parties.

The Commission's decision to abolish the Appeal Panel was an internal management decision concerning which agency organization would conduct administrative appellate review. In adopting interim procedures for conducting appellate review itself, the Commission explicitly stated that it intended to follow existing procedures and thus the existing right of the parties to a merits review of an initial decision would not be affected. (October 24, 1990; 55 FR 42944). Given these facts, the Commission was under no legal duty to provide notice and opportunity for public comment with respect to its decision to abolish the Appeal Panel. See 5 U.S.C. 553(b)(A). In any event, we have considered OCRE's view and do not find it persuasive.

The present rulemaking proceeding, which substitutes a discretionary system of review for a mandatory system and changes certain procedures by which review is conducted, does affect the procedural rights of prospective appellants and, for this reason, has been made the subject of a notice and comment rulemaking proceeding. In response to OCRE's comments concerning NRC's obligations to Congress, we note that Congress was notified of the Commission's plan to abolish the Appeal Panel by letters dated July 3, 1990, from the Chairman of the Commission to the President of the Senate and the Speaker of the House. In response to OCRE's concern that the Commission will be subject to a conflict of interest in conducting appellate review, we note that OCRE's objection is applicable to all agencies with both adjudicatory and staff supervisory functions and is not ground for retaining the Appeal Panel. Moreover the Commission's rules governing ex parte communication and separation of functions (10 CFR 2.780 and 2.781) have long and successfully protected the integrity of adjudicatory proceedings from potential conflicts of the sort complained of here. There is no reason to suppose that these regulations will not continue to serve their function of assuring the impartiality of the Commission and its adjudicatory employees in agency adjudications. Finally, the availability of oral argument in agency appellate review has always been, and will continue to be, a matter of agency discretion. See 10 CFR 2.763.

2. Mandatory vs. Discretionary Review

As noted above, all commenters except OCRE supported adoption of a discretionary review system. Reasons given emphasized the administrative efficiency which will result from the Commission having the flexibility to involve itself only in appeals warranting Commission attention, such as cases involving particularly novel, complex, or precedent-setting issues or important legal, policy, or public health and safety questions. In the view of one industry commenter, a discretionary system, by giving the Commission the opportunity

to focus its attention only on the truly significant cases, will provide more meaningful access to the Commission than would a mandatory system requiring that all cases, including the routine or insignificant, come before the Commission for review. OCRE, on the other hand, favors a mandatory review system. OCRE believes that a mandatory system will serve to increase the Commission's direct involvement in agency adjudications which was one of the reasons given for the decision to abolish the Appeal panel. Further, in OCRE's view, mandatory review will be more fair to all parties in NRC adjudicatory proceedings because all parties will be assured of a thorough agency review of licensing board decisions without the need to incur the expense and delay of judicial review. OCRE mentions the filing fee, the costs of printing and binding the briefs and appendix, and the need for legal counsel as expenses necessitated by a decision to seek judicial review of an initial decision.

The Commission believes that a discretionary review system will be administratively more efficient than a mandatory system for the reasons suggested by the commenters and will also achieve appropriate involvement of the Commission in agency adjudications. While OCRE is technically correct that a mandatory system would bring greater direct involvement of the Commission, the desirability of direct involvement must be balanced against a sensible use of the Commission's time and resources. Even in a discretionary system, the Commission will examine all licensing board decisions to determine whether to take review *sua sponte*. Where review is not taken, a discretionary system will have the benefit of expeditiously bringing the adjudication to an end and enabling a disappointed party to seek judicial review at an earlier point. The direct involvement of the Commission in those cases where review is taken will be more meaningful because the significance of the case will be highlighted by the very fact that the Commission has taken review.

The Commission does not agree with OCRE that is somehow inequitable to provide review of licensing board decisions in some cases but to deny review in others and thus leave some parties with the sole recourse of seeking an initial merits review in the courts. Many disappointed litigants may lose again on appeal. Thus such a party would be saddled with the expense and delay of an appeal before the Commission as well as an appeal in court. Moreover, the expenses of an appeal to the Commission and an appeal to a court would be much the same unless, as contemplated by OCRE, the appellants appear *pro se* before the Commission but retain counsel in court. Even in such an unusual case, however, it may be possible for the appellants to argue *pro se* in court as well. In short, a potential appellant of an initial decision is at least as likely to save on expenses by being able to go to court if a petition for Commission review is rejected as by having to incur the expenses of an appeal before the Commission before judicial review becomes available.

3. Mandatory Review of Licensing Board—NRC Staff Conflicts

One industry commenter, while agreeing that the discretionary review system is appropriate for most cases, suggested that the Commission provide for mandatory review in a proceeding where the licensing board disagrees with the staff's findings and recommendations as to issuance of a site permit, design approval, construction authorization, operating license, combined license, or license amendment. This is because such a situation would create an intra-agency conflict that the commenter believes would warrant mandatory Commission review.

The Commission agrees that the circumstance envisioned is one that might likely merit Commission review. However, to make review mandatory in such a situation might create the appearance that the staff is a party more equal than others in the adjudicatory proceeding before the licensing board and might tend to unduly focus the proceeding on the findings and recommendations of the staff as opposed to those of the applicant on whom the burden of proof has traditionally rested at least in initial licensing cases. Thus the Commission believes that an exception to the discretionary review system need not be carved out to deal with this potential circumstance.

4. Standard for Granting Review

All commenters addressing the issue supported the Commission's proposed adoption of a standard of review similar to that employed by the Commission at the time the Atomic Safety and Licensing Board was established in 1962. That standard states:

> The petition for review may be granted in the discretion of the Commission, giving due weight to the existence of a substantial question with respect to such considerations as the following:
>
> (1) A finding of a material fact is clearly erroneous;
>
> (2) A necessary legal conclusion is without governing precedent or is a departure from or contrary to established law;
>
> (3) A substantial and important question of law, policy or discretion has been raised;
>
> (4) The conduct of the proceeding involved a prejudicial procedural error; or
>
> (5) Any other consideration which the Commission may deem to be in the public interest. (January 13, 1962; 27 FR 377)

An industry commenter urged adoption of an additional factor:

> A conflict in licensing board decisions on a controlling question of law or matter of fact necessary for decision.

Commission review of conflicting interpretations of law by different licensing boards and reconciliation of those interpretations, it is argued, would contribute to a more consistent body of NRC precedent. Similarly, the commenter contends that review where there are conflicts in material factual findings (such as the adequacy of a particular design used at different reactors) would enable the Commission to reconcile differences between licensing boards and would also carry over the policy embodied in present 10 CFR 2.786(b)(4)(ii), wherein the Commission may take review of an appeal board decision if it appears that the appeal board has resolved a factual issue necessary for decision in a clearly erroneous manner contrary to resolution of that same issue by the licensing board.

The Commission adopts this suggestion in part. The potential conflict between licensing boards as to issues of material fact is not explicitly comprised within the review standard but it is clearly a reason for the Commission to take review. Thus the Commission has incorporated this part of the commenter's suggestion into § 2.786(b)(4) of the final rule. On the other hand, a potential conflicting interpretation of law between licensing boards is already a matter comprised within the second or third factor of the January 13, 1962 (27 FR 377) rule. Thus the Commission believes that adding another factor to address this circumstance would be redundant.

The same commenter also suggested that the language of the Commission's present standard for taking review of appeal board decisions be added, perhaps as a footnote, to the standard of review to emphasize that issues presented for review must be significant and thus discourage frivolous appeals. That regulation states:

> A petition for review of matters of law or policy will not ordinarily be granted unless it

appears the case involves an important matter that could significantly affect the environment, the public health and safety, or the common defense and security, constitutes an important antitrust question, involves an important procedural issue, or otherwise raises important questions of public policy.

10 CFR 2.786(b)(4)(i) (1990). The Commission does not agree that this additional language is necessary to discourage frivolous appeals. The standard already provides that the Commission, in determining whether to take review, will give due weight to the existence of a substantial question with respect to, among other things, a substantial and important question of law, policy or discretion. This language should be sufficient to warn potential appellants that issues presented for review must be significant. Moreover, coupling the more restrictive language of the standard the Commission has used to determine whether to take review of appeal board decisions with the more flexible language of the January 13, 1962 (27 FR 377) standard could lead to confusion as to what standard is really being applied. Thus the Commission has not adopted this suggestion.

5. Immediate Effectiveness Rule Amendment

The Commission's notice of proposed rulemaking noted one potential problem with adopting a discretionary review system: The possibility that a licensing board's decision might be appealed to a court without any petition for review having been submitted to the agency altering the agency to potential problems with the decision and giving the agency an opportunity to correct these problems. However, the Commission expressed the view that one way of avoiding this problem would be to continue the Commission's immediate effectiveness regulation (10 CFR 2.764) which provides an automatic stay of effectiveness of designated licensing board decisions until the Commission has reviewed the decision to determine whether it should be allowed to become effective pending any appellate review of the merits of the decision.

Two industry commenters addressed this matter. One favored continuation of the present immediate effectiveness rule; the other urged that the immediate effectiveness rule be replaced with an alternative procedure whereby the Commission would have a brief time limit (10 days was suggested) within which to decide whether to review a licensing board decision authorizing issuance of a construction permit or operating license for a nuclear power reactor. During the period, a party would be able to request a stay of the decision pending any merits review by the Commission. The stay motion would be governed by the factors specified in 10 CFR 2.788(e). If both a stay and review were granted, the licensing action authorized by the decision would not become effective and the decision would not become final agency action. If review were granted but a stay denied, the licensing action authorized by the decision would be effective but there would be no final agency action as to the merits of the licensing board decision. A court could review the Commission's stay decision, but not the merits of the licensing board decision. The advantage of this alternative procedure, in the commenter's view, is that it would help streamline the licensing process in that there would no longer be an automatic stay of indefinite length before the licensing board's decision is allowed to take effect.

The Commission does not believe that it would be feasible to set a regulatory time limit on its decision whether to take review of a licensing board decision of the brevity suggested by the commenter due to the wide variety of cases, including cases presenting multiple complex technical or legal issues where the record is voluminous, that come before the board. The time suggested is not adequate for petitions for review, and responses thereto, to be filed and considered. The Commission's present rule governing petitions for review of appeal board decisions (which will be retained and applied to licensing board decisions) provides a thirty-day period for a decision on whether to take review (10 CFR 2.786(b)(5)). The Commission is establishing a separate Office of Commission Appellate Adjudication with the function of assisting the Commission in the exercise of its appellate review functions. The Commission believes that it will be able to reach a decision on whether to take review in an expeditious fashion but that to impose a severe regulatory time limit for this decision could interfere with its duty to make sure that no public health or safety problems are unresolved before a decision is allowed to become final. Thus the Commission has not adopted this suggestion.

These amendments will take effect thirty days after publication in the **Federal Register**. The amendments apply to any licensing board decision or action issued on or after the effective date of these rules. Appeals presently pending before an appeal board in the Seabrook operating license proceeding, Advanced Medical Systems (Suspension Order) and Wrangler Laboratories enforcement proceedings, and the Turkey Point (OLA–4) and Turkey Point (OLA–5) license amendment proceedings will be governed by the rules in effect prior to October 24, 1990. Licensing board decisions or actions issued before the date these amendments become effective are governed by the rules in effect prior to October 24, 1990, except that the Commission will take the place of appeal boards under those rules and except that the Commission will not entertain a petition for review of its own decision.

Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final regulation.

Paperwork Reduction Act Statement

This final rule contains no information collection requirements and therefore is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, et. seq.).

Regulatory Analysis

The Commission's prior decision to abolish the Appeal Panel which had provided administrative appellate review of initial decisions of presiding officers in agency adjudications necessitates the establishment of a new system wherein the Commission itself will review initial decisions. On October 24, 1990 (55 FR 42944), the Commission put in place interim procedures for conducting this review. In this rulemaking, the Commission adopts a discretionary review system, including a standard whereby the Commission will exercise its discretion whether to take review of a licensing board decision. This system replaces the system of mandatory appellate review formerly provided by appeal boards. The cost of the new discretionary review system is likely to be less in all cases where review is not taken the Commission and the parties will not need to expend further time and resources before a final agency decision is reached. Thus the cost entailed in the promulgation and application of this final rule is necessary and appropriate. The foregoing discussion constitutes the regulatory analysis for this rule.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Commission certifies that this rule will not have a significant economic impact

upon a substantial number of small entities. Many applicants, licensees and intervenors fall within the definition of small businesses found in section 34 of the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR part 121, or the NRC's size standards published December 9, 1985 (50 FR 50241). In a discretionary review system, the procedural requirements on licensees or intervenors may be reduced because they will not need to fully brief errors of fact or law that they may perceive in a presiding officer's decision prior to seeking judicial review unless the Commission first determines to take review of the decision. Licensees and intervenors will, however, need to file petitions for discretionary review with the Commission if they perceive errors in the presiding officer's decision and intend to seek judicial review.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule, and therefore, that a backfit analysis is not required for this final rule, because these amendments do not involve any provisions which would improve backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects

10 CFR Part 0

Conflict of interest, Criminal penalty.

10 CFR Part 1

Organization and functions (Government agencies).

10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalty, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the Nuclear Regulatory Commission is adopting the following amendments to 10 CFR parts 0, 1, and 2.

PART 0—CONDUCT OF EMPLOYEES

1. The authority citation for part 0 continues to read as follows:

Authority: Secs. 25, 161, 68 Stat. 925, 948, as amended (42 U.S.C. 2035, 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); E.O. 11222, 30 FR 6469, 3 CFR 1964–1965 COMP., p. 306; 5 CFR 735.104.

Sections 0.735–21 and 0.735–29 also issued under 5 U.S.C. 552, 553. Section 0.735–26 also issued under secs. 501, 502, Pub. L. 95–521, 92 Stat. 1864, 1867, as amended by secs. 1, 2, Pub. L. 96–28, 93 Stat. 76, 77, (18 U.S.C. 207).

2. In 10 CFR part 0, all references to "the Atomic Safety and Licensing Appeal Panel" or "ASLAP" are removed, and where the word "or" precedes either of these terms, it is moved to the appropriate location in the text.

PART 1—STATEMENT OF ORGANIZATION AND GENERAL INFORMATION

3. The authority citation for part 1 continues to read as follows:

Authority: Secs. 23, 161, 68 Stat. 925, 948, as amended (42 U.S.C. 2033, 2201); sec. 29, Pub. L. 85–256, 71 Stat. 579, Pub. L. 95–209, 91 Stat. 1483 (42 U.S.C. 2039); sec. 191, Pub. L. 87–615, 76 Stat. 409 (42 U.S.C. 2241); secs. 201, 203, 204, 205, 209, 88 Stat. 1242, 1244, 1245, 1246, 1248, as amended (42 U.S.C. 5841, 5843, 5844, 5845, 5849); 5 U.S.C. 552, 553; Reorganization Plan No. 1 of 1980, 45 FR 40561, June 16, 1980.

4. In § 1.11, paragraph (c) is revised to read as follows:

§ 1.11 The Commission.

* * * * *

(c) The following staff units and officials report directly to the Commission: Atomic Safety and Licensing Board Panel, Office of the General Counsel, Office of the Secretary, Office of Commission Appellate Adjudication, Office of the LSS Administrator, Office of Governmental and Public Affairs, and other committees and boards which are authorized or established specifically by the Act. The Advisory Committee on Reactor Safeguards also reports directly to the Commission.

* * * * *

§ 1.17 [Removed]

5. Part 1 is amended by removing § 1.17.

6. In § 1.23, paragraph (b) is revised to read as follows:

§ 1.23 Office of the General Counsel.

* * * * *

(b) Reviews and prepares appropriate draft Commission decisions on public petitions seeking direct Commission action and rulemaking proceedings involving hearings, monitors cases pending before presiding officers and reviews draft Commission decisions on Atomic Safety and Licensing Board decisions and rulings;

* * * * *

7. A new § 1.24 is added to read as follows:

§ 1.24 Office of Commission Appellate Adjudication.

The Office of Commission Appellate Adjudication—

(a) Monitors cases pending before presiding officers;

(b) Provides the Commission with an analysis of any adjudicatory matter requiring a Commission decision (e.g., petitions for review, certified questions, stay requests) including available options;

(c) Drafts any necessary decisions pursuant to the Commission's guidance after presentation of options; and

(d) Consults with the Office of the General Counsel in identifying the options to be presented to the Commission and in drafting the final decision to be presented to the Commission.

§ 1.1 [Amended]

8. In 10 CFR 1.1 the words "and the Atomic Safety and Licensing Appeal Panel" are removed.

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

9. The authority citation for part 2 continues to read as follows:

Authority: Secs. 161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87–615, 76 Stat. 409 (42 U.S.C. 2241); secs. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552.

Section 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 105, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 114(f), Pub. L. 97–425, 96 Stat. 2213, as amended (42 U.S.C. 10134(f)); sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Sections 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Section 2.105 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 2.200–2.206 also issued under secs. 186, 234, 68 Stat. 955, 83 Stat. 444, as amended (42 U.S.C. 2236, 2282); sec. 206, 88 Stat. 1246 (42 U.S.C. 5846). Sections 2.600–2.606 also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332). Sections 2.700a, 2.719 also issued under 5 U.S.C. 554. Sections 2.754, 2.760, 2.770, 2.780 also issued under 5 U.S.C. 557. Section 2.764 and Table 1A of appendix C also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133) and 5 U.S.C. 552. Sections 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553 and sec. 29, Pub. L. 85–256, 71 Stat. 579, as amended (42 U.S.C. 2039). Subpart K also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Subpart L also issued under sec. 189, 68 Stat.

955 (42 U.S.C. 2239). Appendix A also issued under sec. 6, Pub. L. 91–560, 84 Stat. 1473 (42 U.S.C. 2135). Appendix B also issued under sec. 10, Pub. L. 99–240, 99 Stat. 1842 (42 U.S.C. 2021b et seq.).

10. In the definition of *Commission adjudicatory employee* in § 2.4, paragraph (2) is revised to read as follows:

§ 2.4 Definitions.

* * * * *

Commission adjudicatory employee means—

* * * * *

(2) The employees of the Office of Commission Appellate Adjudication;

* * * * *

11. A new § 2.8 is added preceding subpart A to read as follows:

§ 2.8 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) OMB has approved the information collection requirements contained in this part under control number 3150–0136.

(b) The approved information collection requirements contained in this part appear in appendix B.

12. In § 2.704, paragraph (d)(2) is revised to read as follows:

§ 2.704 Designation of presiding officer, disqualification, unavailability.

* * * * *

(d) * * *

(2) The Commission may direct that the record be certified to it for decision; or

* * * * *

13. Section 2.714a(a) is revised to read as follows:

§ 2.714a Petitions for review of certain rulings on petitions for leave to intervene and/or requests for hearing.

(a) Notwithstanding the provisions of § 2.730(f), an order of the presiding officer or the atomic safety and licensing board designated to rule on petitions for leave to intervene and/or requests for hearing may be appealed, in accordance with the provisions of this section, to the Commission within ten (10) days after service of the order. The appeal shall be asserted by the filing of a notice of appeal and accompanying supporting brief. Any other party may file a brief in support of or in opposition to the appeal within ten (10) days after service of the appeal. No other appeals from rulings on petitions and/or requests for hearing shall be allowed.

* * * * *

§ 2.713 [Amended]

13A. In § 2.713(c)(4), the reference to "2.788(b) (1), (2) and (4)" is revised to read "§ 2.788(b) (1), (2), and (3)."

§ 2.715 [Amended]

13B. In § 2.715(d), the words "by the Appeal Board on appeal or sua sponte or" are removed.

§ 2.721 [Amended]

14. In § 2.721, paragraph (c) is removed and paragraph (d) is redesignated as paragraph (c).

15. In § 2.760, paragraphs (a), (b)(1), and (c)(4) are revised to read as follows:

§ 2.760 Initial decision and its effect.

(a) After hearing, the presiding officer will render an initial decision which will constitute the final action of the Commission forty (40) days after its date unless any party petitions for Commission review in accordance with § 2.786 or the Commission takes review sua sponte or the decision is subject to the provisions of § 2.764.

(b) * * *

(1) Prepare its own decision which will become final unless the Commission grants a petition for reconsideration pursuant to § 2.771; or

* * * * *

(c) * * *

(4) The time within which a petition for review of the decision may be filed, the time within which answers in support of or in opposition to a petition for review filed by another party may be filed and, in the case of an initial decision which may become final in accordance with paragraph (a) of this section, the date when it may become final.

16. In § 2.761, paragraphs (a)(1) and (c)(1) are revised to read as follows:

§ 2.761 Expedited decisional procedure.

(a) * * *

(1) All parties stipulate that the initial decision may be omitted and waive their rights to file a petition for review, to request oral argument, and to seek judicial review;

* * * * *

(c) * * *

(1) All parties stipulate that the initial decision may be made effective immediately and waive their rights to file a petition for review, to request oral argument, and to seek judicial review;

* * * * *

§ 2.762 [Removed]

17. Part 2 is amended by removing § 2.762.

18. Section 2.763 is revised to read as follows:

§ 2.763 Oral argument.

In its discretion the Commission may allow oral argument upon the request of a party made in a petition for review or brief on review, or upon its own initiative.

§ 2.764 [Amended]

18a. In § 2.764, paragraph (e)(1)(i), the words "Appeal Board and" are removed, and the reference to "paragraphs (e)(2) and (e)(3)" is revised to read "paragraph (e)(2)".

19. In § 2.764, paragraph (e)(3) is removed and paragraphs (a), (b), (e)(2), (f)(2)(iv), and (g) are revised to read as follows:

§ 2.764 Immediate effectiveness of initial decision directing issuance or amendment of construction permit or operating license.

(a) Except as provided in paragraphs (c) through (f) of this section, or as otherwise ordered by the Commission in special circumstances, an initial decision directing the issuance or amendment of a construction permit, a construction authorization, or an operating license shall be effective immediately upon issuance unless the presiding officer finds that good cause has been shown by a party why the initial decision should not become immediately effective, subject to review thereof and further decision by the Commission upon petition for review filed by any party pursuant to § 2.786 or upon its own motion.

(b) Except as provided in paragraphs (c) through (f) of this section, or as otherwise ordered by the Commission in special circumstances, the Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards, as appropriate, notwithstanding the filing or granting of a petition for review, shall issue a construction permit, a construction authorization, or an operating license, or amendments thereto, authorized by an initial decision, within ten (10) days from the date of issuance of the decision.

* * * * *

(e) * * *

(2) Commission. Within sixty days of the service of any Licensing Board decision that would otherwise authorize issuance of a construction permit, the Commission will seek to issue a decision on any stay motions that are timely filed. Such motions shall be filed

as provided by 10 CFR 2.788. For the purpose of this policy, a "stay" motion is one that seeks to defer the effectiveness of a Licensing Board decision beyond the period necessary for the Commission action described herein. If no stay papers are filed, the Commission will, within the same time period (or earlier if possible), analyze the record and construction permit decision below on its own motion and will seek to issue a decision on whether a stay is warranted. It shall not, however, decide that a stay is warranted without giving the affected parties an opportunity to be heard. The initial decision will be considered stayed pending the Commission's decision. In deciding these stay questions, the Commission shall employ the procedures set out in 10 CFR 2.788.

(f) * * *

(2) * * *

(iv) In announcing a stay decision, the Commission may allow the proceeding to run its ordinary course or give instructions as to the future handling of the proceeding. Furthermore, the Commission may in a particular case determine that compliance with existing regulations and policies may no longer be sufficient to warrant approval of a license application and may alter those regulations and policies.

(g) The Commission's effectiveness determination is entirely without prejudice to proceedings under § 2.786 or § 2.788.

20. In § 2.770, paragraph (a) is revised to read as follows:

§ 2.770 Final decision.

(a) The Commission will ordinarily consider the whole record on review, but may limit the issues to be reviewed to those identified in an order taking review.

* * * * *

21. In § 2.771, paragraph (a) is revised to read as follows:

§ 2.771 Petition for reconsideration.

(a) A petition for reconsideration of a final decision may be filed by a party within ten (10) days after the date of the decision.

* * * * *

22. In § 2.780, paragraph (e)(2) is revised to read as follows:

§ 2.780 Ex parte communication.

* * * * *

(e) * * *

(2) The prohibitions of this section cease to apply to ex parte communications relevant to the merits of a full or partial initial decision when, in accordance with § 2.786, the time has expired for Commission review of the decision.

* * * * *

23. In § 2.781, paragraphs (d)(2) and (f) are revised to read as follows:

§ 2.781 Separation of functions.

* * * * *

(d) * * *

(2) The prohibitions of this section will cease to apply to the disputed issues pertinent to a full or partial initial decision when, in accordance with § 2.786, the time has expired for Commission review of the decision.

* * * * *

(f) If an initial or final decision is stated to rest in whole or in part on fact or opinion obtained as a result of a communication authorized by this section, the substance of the communication must be specified in the record of the proceeding and every party must be afforded an opportunity to controvert the fact or opinion. If the parties have not had an opportunity to controvert the fact or opinion prior to the filing of the decision, a party may controvert the fact or opinion by filing a petition for review of an initial decision, or a petition for reconsideration of a final decision that clearly and concisely sets forth the information or argument relied on to show the contrary. If appropriate, a party may be afforded the opportunity for cross-examination or to present rebuttal evidence.

§ 2.785 [Removed]

24. Part 2 is amended by removing § 2.785.

25. Section 2.786 is revised to read as follows:

§ 2.786 Review of decisions and actions of a presiding officer.

(a) Within forty (40) days after the date of a decision or action by a presiding officer, or within thirty (30) days after a petition for review of the decision or action has been filed under paragraph (b) of this section, whichever is greater, the Commission may review the decision or action on its own motion, unless the Commission, in its discretion, extends the time for its review.

(b)(1) Within fifteen (15) days after service of a full or partial initial decision by a presiding officer, and within fifteen (15) days after service of any other decision or action by a presiding officer with respect to which a petition for review is authorized by this part, a party may file a petition for review with the Commission on the grounds specified in paragraph (b)(4) of this section. The filing of a petition for review is mandatory for a party to exhaust its administrative remedies before seeking judicial review.

(2) A petition for review under this paragraph must be no longer than ten (10) pages, and must contain the following:

(i) A concise summary of the decision or action of which review is sought;

(ii) A statement (including record citation) where the matters of fact or law raised in the petition for review were previously raised before the presiding officer and, if they were not why they could not have been raised;

(iii) A concise statement why in the petitioner's view the decision or action is erroneous; and

(iv) A concise statement why Commission review should be exercised.

(3) Any other party to the proceeding may, within ten (10) days after service of a petition for review, file an answer supporting or opposing Commission review. This answer must be no longer than ten (10) pages and should concisely address the matters in paragraph (b)(2) of this section to the extent appropriate. The petitioning party shall have no right to reply, except as permitted by the Commission.

(4) The petition for review may be granted in the discretion of the Commission, giving due weight to the existence of a substantial question with respect to the following considerations:

(i) A finding of material fact is clearly erroneous or in conflict with a finding as to the same fact in a different proceeding;

(ii) A necessary legal conclusion is without governing precedent or is a departure from or contrary to established law;

(iii) A substantial and important question of law, policy or discretion has been raised;

(iv) The conduct of the proceeding involved a prejudicial procedural error; or

(v) Any other consideration which the Commission may deem to be in the public interest.

(5) A petition for review will not be granted to the extent that it relies on matters that could have been but were not raised before the presiding officer. A matter raised sua sponte by a presiding officer has been raised before the presiding officer for the purpose of this section.

(6) A petition for review will not be granted as to issues raised before the presiding officer on a pending motion for reconsideration.

(c) If within thirty (30) days after the filing of a petition for review the Commission does not grant the petition, in whole or in part, the petition shall be

deemed denied, unless the Commission in its discretion extends the time for its consideration of the petition and any answers thereto.

(d) If a petition for review is granted, the Commission will issue an order specifying the issues to be reviewed and designating the parties to the review proceeding and direct that appropriate briefs be filed, oral argument be held, or both.

(e) Petitions for reconsideration of Commission decisions granting or denying review in whole or in part will not be entertained. A petition for reconsideration of a Commission decision after review may be filed within ten (10) days, but is not necessary for exhaustion of administrative remedies. However, if a petition for reconsideration is filed, the Commission decision is not final until the petition is decided.

(f) Neither the filing nor the granting of a petition for review will stay the effect of the decision or action of the presiding officer, unless otherwise ordered by the Commission.

(g) Certified questions and referred rulings. A question certified to the Commission under § 2.718(i) or a ruling referred under § 2.730(f) must meet one of the alternative standards in this subsection to merit Commission review. A certified question or referred ruling will be reviewed if it either—

(1) Threatens the party adversely affected by it with immediate and serious irreparable impact which, as a practical matter, could not be alleviated through a petition for review of the presiding officer's final decision; or

(2) Affects the basic structure of the proceeding in a pervasive or unusual manner.

§ 2.787 [Removed]

26. Part 2 is amended by removing § 2.787.

27. Section 2.788 is revised to read as follows:

§ 2.788 Stays of decisions of presiding officers pending review.

(a) Within ten (10) days after service of a decision or action of a presiding officer any party to the proceeding may file an application for a stay of the effectiveness of the decision or action pending filing of and a decision on a petition for review. This application may be filed with the Commission or the presiding officer, but not both at the same time.

(b) An application for a stay must be no longer than ten (10) pages, exclusive of affidavits, and must contain the following:

(1) A concise summary of the decision or action which is requested to be stayed;

(2) A concise statement of the grounds for stay, with reference to the factors specified in paragraph (e) of this section; and

(3) To the extent that an application for a stay relies on facts subject to dispute, appropriate references to the record or affidavits by knowledgeable persons.

(c) Service of an application for a stay on the other parties shall be by the same method, e.g., telecopier message, mail, as the method for filing the application with the Commission or the presiding officer.

(d) Within ten (10) days after service of an application for a stay under this section, any party may file an answer supporting or opposing the granting of a stay. This answer must be no longer than ten (10) pages, exclusive of affidavits, and should concisely address the matters in paragraph (b) of this section to the extent appropriate. No further replies to answers will be entertained. Filing of and service of an answer on the other parties must be by the same method, e.g., telecopier message, mail, as the method for filing the application for the stay.

(e) In determining whether to grant or deny an application for a stay, the Commission or presiding officer will consider:

(1) Whether the moving party has made a strong showing that it is likely to prevail on the merits;

(2) Whether the party will be irreparably injured unless a stay is granted;

(3) Whether the granting of a stay would harm other parties; and

(4) Where the public interest lies.

(f) In extraordinary cases, where prompt application is made under this section, the Commission or presiding officer may grant a temporary stay to preserve the status quo without waiting for filing of any answer. The application may be made orally provided the application is promptly confirmed by telecopier message. Any party applying under this paragraph shall make all reasonable efforts to inform the other parties of the application, orally if made orally.

28. Section 2.1000 is revised to read as follows:

§ 2.1000 Scope of subpart.

The rules in this subpart govern the procedure for applications for a license to receive and possess high-level radioactive waste at a geologic repository operations area noticed pursuant to § 2.101(f)(8) or § 2.105(a)(5) of this part. The procedures in this subpart take precedence over the 10 CFR part 2, subpart G, rules of general applicability, except for the following provisions: §§ 2.702, 2.703, 2.704, 2.707, 2.709, 2.711, 2.713, 2.715, 2.715a, 2.717, 2.718, 2.720, 2.721, 2.722, 2.732, 2.733, 2.734, 2.742, 2.743, 2.750, 2.751, 2.753, 2.754, 2.755, 2.756, 2.757, 2.758, 2.759, 2.760, 2.761, 2.763, 2.770, 2.771, 2.772, 2.780, 2.781, 2.786, 2.788, and 2.790.

29. In § 2.1015, paragraph (c) is revised to read as follows:

§ 2.1015 Appeals.

* * * * *

(c) Appeals from a Presiding Officer initial decision or partial initial decision must be filed and briefed before the Commission in accordance with the following requirements.

(1) *Notice of appeal.* Within ten (10) days after service of an initial decision, any party may take an appeal to the Commission by filing a notice of appeal. The notice shall specify:

(i) The party taking the appeal; and

(ii) The decision being appealed.

(2) *Filing appellant's brief.* Each appellant shall file a brief supporting its position on appeal within thirty (30) days (40 days if Commission staff is the appellant) after the filing of notice required by paragraph (a) of this section.

(3) *Filing responsive brief.* Any party who is not an appellant may file a brief in support of or in opposition to the appeal within thirty (30) days after the period has expired for the filing and service of the brief of all appellants. Commission staff may file a responsive brief within forty (40) days after the period has expired for the filing and service of the briefs of all appellants. A responding party shall file a single responsive brief regardless of the number of appellants' briefs filed.

(4) *Brief content.* A brief in excess of ten (10) pages must contain a table of contents, with page references, and a table of cases (alphabetically arranged), statutes, regulations, and other authorities cited, with references to the pages of the brief where they are cited.

(i) An appellant's brief must clearly identify the errors of fact or law that are the subject of the appeal. An intervenor-appellant's brief must be confined to issues which the intervenor-appellant placed in controversy or sought to place in controversy in the proceeding. For each issue appealed, the precise portion of the record relied upon in support of the assertion of error must also be provided.

(ii) Each responsive brief must contain a reference to the precise portion of the

record which supports each factual assertion made.

(5) *Brief length.* A party shall not file a brief in excess of seventy (70) pages in length, exclusive of pages containing the table of contents, table of citations and any addendum containing statutes, rules, regulations, etc. A party may request an increase of this page limit for good cause. Such a request shall be made by motion submitted at least seven (7) days before the date upon which the brief is due for filing and shall specify the enlargement requested.

(6) *Certificate of service.* All documents filed under this section must be accompanied by a certificate reflecting service upon all other parties to the proceeding.

(7) *Failure to comply.* A brief which in form or content is not in substantial compliance with the provisions of this section may be stricken, either on motion of a party or by the Commission on its own initiative.

* * * * *

30. In § 2.1209, paragraph (d) is revised to read as follows:

§ 2.1209 Power of presiding officer.

* * * * *

(d) Certify questions to the Commission for determination, either in the presiding officer's discretion or on direction of the Commission;

* * * * *

31. Section 2.1241 is revised to read as follows:

§ 2.1241 Settlement of proceedings.

The fair and reasonable settlement of proceedings subject to this subpart is encouraged. A settlement must be approved by the presiding officer or the Commission as appropriate in order to be binding in the proceeding.

32. In § 2.1251, paragraphs (a), (c)(3) and (f) are revised to read as follows:

§ 2.1251 Initial decision and its effect.

(a) Unless the Commission directs that the record be certified to it in accordance with paragraph (b) of this section, the presiding officer shall render an initial decision after completion of an informal hearing under this subpart. That initial decision constitutes the final action of the Commission thirty (30) days after the date of issuance, unless any party petitions for Commission review in accordance with § 2.786 or the Commission takes review of the decision sua sponte.

* * * * *

(c) * * *

(3) The time within which a petition for review may be filed, the time within which any answer to a petition for review may be filed, and the date when the decision becomes final in the absence of the Commission taking review of the decision.

* * * * *

(f) Following an initial decision resolving all issues in favor of the licensing action as specified in paragraph (e) of this section, the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate, notwithstanding the filing of a petition for review or pendency of any review taken by the Commission pursuant to § 2,786, shall take the appropriate licensing action upon making the appropriate licensing findings promptly, except as may be provided pursuant to paragraph (e)(1) or (2) of this section.

33. Section 2.1253 is revised to read as follows:

§ 2.1253 Petitions for review of initial decisions.

Parties and § 2.1211(b) participants may petition for review of an initial decision under this subpart in accordance with the procedures set out in § § 2.786 and 2.763 or the Commission may review the decision on its own motion. Commission review will be conducted in accordance with those procedures the Commission deems appropriate. The filing of a petition for review is mandatory for a party to exhaust its administrative remedies before seeking judicial review.

§ 2.1255 [Removed]

34. Part 2 is amended by removing § 2.1255.

§ 2.1257 [Removed]

35. Part 2 is amended by removing § 2.1257.

36. In part 2, appendix A, section IX is removed and section I(b) is revised to read as follows:

Appendix A—Statement of General Policy and Procedure: Conduct of Proceedings for the Issuance of Construction Permits and Operating Licenses for Production and Utilization Facilities for Which a Hearing Is Required Under Section 189a of the Atomic Energy Act of 1954, as Amended

* * * * *

I. Preliminary Matters

* * * * *

(b) In fixing the time and place of any conference, including prehearing conferences, or of any adjourned session of the evidentiary hearing, due regard shall be had for the convenience and necessity of the parties, petitioners for leave to intervene, or the representatives of such persons, as well as of the Board members, the nature of such conference or adjourned session, and the public interest. Adjourned sessions of hearings may be held in the Washington, DC area if all parties so stipulate. If the parties disagree, and any party considers that there are valid reasons for holding such session in the Washington, DC area, the matter should be referred to the Commission for resolution.

* * * * *

36A. In part 2, appendix a, section I(c)(1), the reference to "§§ 2.760 and 2.762" is revised to read "§ 2.760".

37. In 10 CFR part 2, all further references to the "Atomic Safety and Licensing Appeal Panel," "Atomic Safety and Licensing Appeal Board" and "Appeal Board" are removed and the following instructions apply:

A. In cases where there are two references, and the word "or" precedes or follows one of the listed terms, it is removed with the term.

B. In cases were there are two references and the words "as appropriate" appear in the same sentence with the listed term, they are also removed.

C. If the words "and" or "and/or" precede one of the terms listed, it is removed with the term.

D. The words "the", "a", or "an" preceding one of the listed terms is removed with the term if there are no other remaining terms to which the word applies.

Dated at Rockville, MD this 19th day of June , 1991.

For the Nuclear Regulatory Commission,

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 91-15092 Filed 6-26-91; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 261

[Docket No. R-0713]

Rules Regarding Availability Of Information; Freedom of Information Reform Act

AGENCY: Board of Governors of the Federal Reserve System

ACTION: Final Rule.

SUMMARY: The Board of Governors of the Federal Reserve System (the "Board") has adopted as a final rule, without change, the amendment to its Rules Regarding Availability of Information that was adopted by interim rule effective January 2, 1991 (55 FR 49876, December 3, 1990). The interim rule reflected changes in the direct costs to the Board to conduct searches, review documents, and copy documents in

response to requests made under the Freedom of Information Act ("FOIA") by adding an "appendix A" to 12 CFR 2610.10—Freedom of Information Fee Schedule. "Appendix A" amended the Board's previous fee schedule established in 1987 (52 FR 15299, April 28, 1987). Appendix A will remain the same as that adopted in the interim rule.

EFFECTIVE DATE: June 27, 1991

FOR FURTHER INFORMATION CONTACT: Elaine M. Boutilier, Senior Attorney, Legal Division (202/452-2418); or Susanne K. Mitchell, Manager, Freedom of Information Office (202/452-3684); or for the hearing impaired *only*, Telecommunications Device for the Deaf ("TDD"), Dorothea Thompson (202/452-3544), Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: The Freedom of Information Reform Act of 1986 (Pub. L. 99-570) ("FOI Reform Act") requires each federal agency to "promulgate regulation, pursuant to notice and receipt of public comment, specifying the schedule of fees applicable to the processing of requests" under the Freedom of Information Act. These regulations must conform to guidelines issued by the Office of Management and Budget ("OMB") (52 FR 10018, March 27, 1987). The FOI Reform Act requires that the fees charged provide only for the recovery of the direct costs of search, review, and duplication (5 U.S.C. 552(a)(4)(A)(iv)).

The Board's current fee schedule, which was established by the interim rule, amended the fee schedule that had been in effect since May 1987 (52 FR 15299, April 28, 1987). The Board issued the current fee schedule as an interim rule; and the Board invited comments regarding the interim fee schedule prior to adoption of the final rule (55 FR 49876 December 3, 1990).

The comment period has expired and the Board has received no comments regarding this matter. Accordingly, the Board has adopted as a final rule the increase in its fees applicable to FOIA requests set out in the interim rule. Neither the interim rule nor this final rule makes any change in the definition of services or direct or actual costs, or in the treatment of various categories of requesters.

Pursuant to 5 U.S.C. 553(d), the Board finds that good cause exists to make this final rule effective immediately. The interim rules provided a 30-day comment period, and no comments were received during or after the comment period. The interim rule and the final rule are identical, and the interim rule remains in force until the final rule becomes effective. Therefore, no useful purpose would be served by having this rule take effect after 30 days instead of immediately.

Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 *et seq.*), the Board certifies that this rule will not have a significant economic impact on a substantial number of small entities that would be subject to the regulation. The amendment confirms a change in agency fees applicable to FOIA requests and will not have any particular impact on small entities subject to the regulation.

List of Subjects in 12 CFR Part 261

Confidential business information, Federal Reserve System, Freedom of Information.

For the reasons set forth in this document, and pursuant to the Board's authority under the Freedom of Information Reform Act of 1986 (Pub. L. 99-570, 5 U.S.C. 552(a)(4)(A)(i)) to promulgate rules implementing the FOI Reform Act, the Board confirms its amendment of 12 CFR part 261.

PART 261—RULES REGARDING AVAILABILITY OF INFORMATION

Accordingly, the interim rule amending 12 CFR part 261 which was published at 55 FR 49876 on December 3, 1990, is adopted as a final rule without change.

By order of the Board of Governors of the Federal Reserve System, June 21, 1991.

William W. Wiles,

Secretary of the Board.

[FR Doc. 91-15297 Filed 6-26-91; 8:45 am]

BILLING CODE 6210-01-F

FARM CREDIT ADMINISTRATION

12 CFR Parts 611, 620, and 621

RIN 3052-AB20

Organization; Disclosure to Shareholders; Accounting and Reporting Requirements

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration (FCA), by the Farm Credit Administration Board, adopts final regulations that amend 12 CFR parts 611, 620, and 621, that were published as proposed regulations on January 24, 1991 (56 FR 2715). These final regulations implement changes made necessary as a result of the amendment of the Farm Credit Act of 1971 (1971 Act), as amended by the Agricultural Credit Act of 1987 (1987 Act) (Pub. L. 100–233). The final regulations require disclosure of enforcement actions and additional disclosure related to capital, obligations of the Farm Credit System Financial Assistance Corporation, obligations insured by the Farm Credit System Insurance Corporation (FCSIC), and the establishment of the Federal Agricultural Mortgage Corporation (Farmer Mac); and new authorities to participate in Farmer Mac programs. Other amendments clarify the existing disclosure and accounting and reporting requirements; reflect changes to generally accepted accounting principles; and modify existing requirements for preparing, distributing, and filing reports. The final regulations also include technical amendments necessary to recognize the structural changes in Farm Credit System (System) institutions and changes in lending authority required or authorized by the 1987 Act.

EFFECTIVE DATE: These regulations shall become effective upon the expiration of 30 days after this publication during which either or both Houses of Congress are in session. Notice of the effective date will be published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT:

Tong-Ching Chang, Staff Accountant, Policy and Risk Analysis Division, Office of Examination, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090, (703) 883–4483, TDD (703) 883–4444;

or

Joy Strickland, Attorney, Office of General Counsel, Farm Credit Administration 1501, Farm Credit Drive, McLean, Virginia 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION: On January 24, 1991, the Farm Credit Administration (FCA) published for public comment (56 FR 2715) proposed amendments to 12 CFR parts 611, 620, and 621 relating to Farm Credit System (System) institutions' disclosure to shareholders. The proposed amendments also reflected changes in the Farm Credit Act of 1971, as amended by the Agricultural Credit Act of 1987 (1987 Act) (Pub. L. 100–233). The proposed amendments were divided into three categories. In the first category were proposed technical amendments to the regulations addressing changes in the structure and lending authority of System institutions. The second category comprised proposed amendments requiring disclosure related

to capital, obligations insured by the Farm Credit System Insurance Corporation (FCSIC), obligations issued by the Farm Credit System Financial Assistance Corporation, purchases and sales of loans, participation in secondary market activities, and enforcement actions. The third category comprised other proposed procedural, technical, and conforming changes. Clarifications to the existing regulations regarding disclosure and accounting and reporting requirements were also proposed. The comment period for these proposed amendments closed on February 25, 1991.

The FCA received two letters commenting on the proposed regulations. One letter was submitted by the Farm Credit Council (FCC) on behalf of its membership and the Farm Credit Banks Funding Corporation (Funding Corporation). The other letter was submitted by the Farm Credit Bank (FCB) of Springfield and the Springfield Bank for Cooperatives endorsing the comments contained in the FCC letter. The FCC letter represented a summary of the consolidated comments of its membership and the Funding Corporation.

The FCC comment letter incorporated by reference two attachments containing a list of issues regarding the disclosure regulations identified by the System Financial Reporting/Disclosure Workgroup on which the System workgroup sought interpretations and expressed concerns. The issues were submitted by the System workgroup in August 1990. Some of these issues are addressed by the final regulations and others were addressed in a February 1991 FCA staff response that clarified existing provisions. The FCC requested that the final regulations address those requested interpretations and concerns and that clarifications be included as supplemental information to the final rule.

The FCA believes the final rule clarifies those points that need to be clarified and does not believe that it is necessary or appropriate to include the full text of the February response as supplemental information to the final regulations. However, the final regulations make no change to § 620.3(i)(2) of the existing regulations to increase the minimum reporting level of compensation to senior officers from $50,000 to $60,000 as requested. The issue of raising the compensation minimum reporting level for senior officers was included in the System workgroup's list of concerns. In adopting the proposed amendments to the existing regulations, the FCA considered the issue and believed that raising the minimum reporting level would not ensure Farm Credit institutions' full disclosure to shareholders. The FCA determined that an amendment in the proposed rule to raise the compensation minimum reporting level for senior officers was not appropriate and the final rule confirms the FCA's determination to make no changes to redesignated § 620.5(i)(2). The basis for establishing the existing minimum reporting level can be found at 51 FR 21336, June 12, 1986.

In addition, the FCA has not adopted the suggestion that a number of significant items of § 620.5 be relegated to a supplemental report that is available to shareholders only upon request. Because the annual and quarterly reports required by part 620 are used both as a prospectus and a shareholder report, the FCA believes it would not be appropriate to relegate essential disclosures to such supplemental reports. The FCA continues to believe that the nature of the information suggested to be included in a supplemental report is the information about an institution's operations that is needed by shareholders to make informed decisions and to hold management accountable for its actions. The FCA further believes that requiring shareholders to request essential disclosures constitutes an undue burden on shareholders and could preclude the receipt of data by shareholders on a timely basis.

The following discussion summarizes comments received and the FCA's response to the comments. The discussion is presented by section in the order the sections appear in the final regulations. It includes an explanation of the proposed amendments to the existing regulations, comments on the proposed amendments, the FCA response to the comments, significant supplementary information contained in the proposed rule necessary to clarify the final regulations, and an explanation of significant changes made to the proposed regulations in adopting the final regulations.

I. Part 611—Organization

Subparts L, M, and N of the existing regulations were proposed to be revised to reflect changes to the citations to part 620 that would be required by the proposed amendments. These are conforming changes only and are adopted with minor technical revisions.

II. Part 620—Disclosure to Shareholders

The FCC requested that the FCA clarify how the proposed regulations would apply to associations that have become long-term direct lenders but have not purchased the bank's existing loan portfolio. In response to this comment, the FCA notes that the term "direct lender", as defined in § 619.9135, includes agricultural credit associations (ACAs) and Federal land credit associations (FLCAs) that are authorized to lend to eligible borrowers. Thus, any association having such authority is a direct lender association for the purposes of the disclosure regulations. Accordingly, each association having direct lending authority must comply with the disclosure requirements for direct lenders, whether or not the association has purchased the existing bank loan portfolio.

A. Subpart A—General

The amended disclosure regulations contain many procedural and technical changes to part 620. A new subpart A has been added, and the existing subparts of part 620 have been redesignated accordingly. New "Subpart A—General" contains definitions and general provisions that are applicable to all disclosure statements required by all subparts of part 620. Specific requirements pertaining to individual reports remain in the applicable subparts.

1. Section 620.1—Definitions

To reflect the structural and capitalization changes in System institutions as a result of the 1987 Act, the final regulation incorporates new definitions as part 619 for "association," "bank," and "direct lender association" and new definitions in part 615 for "permanent capital" and "protected borrower capital." In addition, the final regulation adds a new definition of "significant event." The final regulation also adds new definitions, "related association" and "related bank," to replace the previous references to "district bank" and "association in the district"; updates the definition of "loan" to reflect the Federal Agricultural Mortgage Corporation (Farmer Mac) secondary market activities and purchases and sales of loans; and clarifies the definition of "normal risk of collectibility" in which loans having a greater than normal risk of collectibility may include loans other than nonperforming loans.

The FCC commented on several definitions contained in the proposed amendments. The first comment was on the proposed definition of "loan" in § 620.1(g). The FCC stated that the definition as drafted could be construed

to have a much broader meaning. They further stated that the statement "that is recorded as an asset" contained in the first sentence of the definition should be repeated in the second sentence to subject all items listed in the second sentence to the same condition. The FCA notes that the first sentence of the definition provides a general definition that requires an item to be recorded as an asset in order to be considered a loan. The second sentence clarifies the general definition with specific examples that normally fall within the meaning of the general definition. Therefore, the repetition of the condition in the second sentence would be unnecessary. However, to ensure clarity, the FCA believes that it is necessary to include "lease financings" in the second sentence to support the general definition "extension of * * * lease" stated in the first sentence. The FCC also suggested that the definition of "loan" in parts 620 and 621 should be consistent. When it reviews part 621, the FCA will consider this specific comment as well as other comments made by the FCC relating to part 621 in that review.

The FCC further commented that the term "net worth" is unnecessary and possibly confusing. They believe that the term "capital" continues to be a suitable descriptive term to include all equity accounts. The FCA has considered the FCC's comment and concluded that the terms"capital" and "net worth" are generally interchangeable in the industry. However, the FCA has revised the final regulation to include the term "capital" in place of the proposed term "net worth." The FCA believes that capital that is protected by the 1987 Act must be separated from capital that is at risk on the face of the financial statements. This distinction is critical to readers' understanding of the financial statements and necessary for full disclosure regarding an institution's capital structure. Accordingly, the final regulation specifies what elements of "capital" are to be used in the calculation of certain financial ratios and in matters relating to the disclosure of capital.

Regarding the definition of "normal risk of collectibility," the FCC stated that the proposed amendment would result in an open-ended set of criteria. They believe that the "other high risk" classification in § 621.2(a)(18) would adequately cover any "miscellaneous" circumstances where a loan has more than the normal risk of collectibility and that the definition in part 620 is unnecessary and should be eliminated. The existing definition of "normal risk of collectibility" provides that "* * *. Any loans properly identifiable as 'nonperforming loans' * * * shall be deemed to have more than a normal risk of collectibility." This has been misinterpreted to mean that only nonperforming loans involve more than normal risk of collectibility. The FCA wishes to clarify that while all loans identified as nonperforming in accordance with § 621.2(a)(17) are determined to have more than a normal risk of collectibility, other loans may also be considered to have more than a normal risk of collectibility even though they may not be classified as nonperforming loans. The amendment is intended to emphasize that management is required to exercise judgment to determine whether a loan involves more than a normal risk of collectibility and such determination should be made independent from the classification of the loan as nonperforming. When it reviews part 621, the FCA will consider the definition of "other high risk loans" in its review. The FCA adopts the clarification of "normal risk of collectibility" as proposed.

Moreover, the FCC commented that "permanent capital" is not a term used in general-purpose financial statements and that the use of a permanent capital concept should be limited to certain regulatory calculations. They further commented that the amount of permanent capital disclosed on the balance sheet may differ from the permanent capital used in the computation of the permanent capital ratio (PCR) due to double-counted capital eliminations and the use of average daily balances. The FCA believes that "permanent capital" is an important and relevant term to shareholders because the ability of the institution to distribute earnings depends upon the level of permanent capital. The regulation does not contemplate that the term "permanent capital" be used on the face of the financial statements. The proposed regulations required disclosure of the amount of permanent capital in the selected financial data section, not in the financial statements. In order to clarify what amount of permanent capital is required under the selected financial data section, the FCA has revised the proposed heading "Permanent capital" in § 620.5(f) to "At-risk capital." The reporting institution should also disclose that, for the purpose of computing the PCR, adjustments in accordance with regulatory requirements are necessary.

Another comment stated that the proposed definition of "protected borrower stock" in § 620.1(k) is not sufficiently comprehensive and suggested using the term "protected borrower capital" to include any protected allocated surplus to make it clear to readers that more than stock is included. The FCA believed that the term "protected borrower stock" included protected allocated surplus because it references § 615.5260 and corresponds with the 1987 Act in which "borrower stock" includes stock, participation certificates, and allocated equities. However, in order to clarify this regulation, the FCA has no objection to using the suggested term "protected borrower capital" in place of "protected borrower stock," and has adopted the term in the final regulations.

Lastly, regarding the definition of "significant event" in § 620.1(q), the FCC asserted that a bank's execution of a financial assistance agreement with a small association may not represent a material risk to the bank, and the probability of activation of such an agreement may not be likely. The FCC requested clarification as to whether the financial assistance agreement in such circumstance would constitute a significant event. In order to clarify the requirements, the FCA notes that items listed in the proposed definition, i.e., actual or probable noncompliance with the regulatory minimum permanent capital standards or capital adequacy requirements, stock impairment, the imposition of or entering into enforcement actions, execution of financial assistance agreements with other institutions, collateral deficiencies that impact a bank's ability to obtain loan funds, and defaults of debt obligations, are deemed by the FCA to be significant events and are not subject to any evaluation or judgment as to their materiality or likelihood.

The FCC also asserted that the definition of "significant event" should include a reasonable future time period within which such events must occur in order to be considered significant and suggested 12 months to be a reasonable period of time in which to forecast significant events. The FCA disagrees with the FCC and believes that any significant event that is likely to have a material impact on the reporting institution should be disclosed, if known, without regard to the expectation of when such event will occur. However, it is recognized that the extent of the disclosure may vary depending on the institution's knowledge of the significance of the event at the time of the reporting.

2. Section 620.2—Preparing and Filing the Reports

Section 620.2 of the final regulations clarifies that reports sent to the FCA may be filed with offices designated by the Chief Examiner and specifies that the reports must be filed on or before the date required by the regulation. The section also contains a new requirement that reports be available for public inspection at the issuing institution. In addition, the reports must include a statement that the shareholders' investment in an association is materially affected by the financial condition of the related bank. The reports must also include the address and telephone number where an association shareholder can obtain copies of bank quarterly reports for quarters in which the bank does not distribute such information. The regulation also requires that the bank reports be provided to the requesting shareholder free of charge.

The FCC provided several comments on this section. First, it was suggested that proposed § 620.2(a) be clarified to state that each institution is required to file three copies of material actually provided to stockholders with the FCA. The FCA intends to prescribe the minimum requirements for filing of periodic reports with the FCA in § 620.2(a). The FCA has determined that the regulation as written is clear but also agrees that an institution would satisfy this regulatory requirement if it files with the FCA copies of material actually provided to stockholders. Therefore, no change to the regulation is necessary.

Secondly, the FCC recognized that a bank and its related associations continue to be financially and operationally interdependent and that they should continue to report on a combined basis. However, the FCC suggested that because facts and circumstances may change, the regulation should provide for greater flexibility by requiring that the reporting entity comply with Generally Accepted Accounting Principles (GAAP) rather than requiring combined reporting.

The FCA recognizes that the need for reporting on a combined bank and association basis may at some point change due to structural changes in the System, new capital requirements, and the prospect of increased autonomy and financial independence of associations. However, until conditions in the System change, the FCA continues to believe that combined bank and association reports provide shareholders with needed information to assess the impact that the bank and its related associations have on the financial condition of a particular association and its ability to obtain loan funds. Further, the FCA is monitoring developments of the Financial Accounting Standards Board in the area of consolidated reporting for the purpose of evaluating whether adjustments to the regulations are needed. The disclosure regulations can be amended at a later date to conform to any changes that may occur. Thus, the FCA has determined that no changes to the proposed regulations are needed at this time.

In addition, the FCC requested the FCA to develop in the context of the accounting and reporting regulations, a meaningful and usable presentation of the allowance for loan losses and provision for loan losses for the users of financial statements of production credit associations (PCAs). The FCC further suggested that the regulation should provide for the balance sheet and the statement of income to be prepared in accordance with GAAP and allow the impact of the statutory requirements to be disclosed in notes to the financial statements. The FCC believes that this would result in the most meaningful presentation to shareholders and would eliminate the "unnecessary and complex Management Discussion and Analysis" which currently must explain and disclose statutory requirements that have no impact on the operations of the PCAs.

The FCA will consider these comments in its review of part 621 in the light of any legislative changes to section 2.3(b) of the 1971 Act that may have occurred at that time.

The FCC further suggested that the regulations use the term "district report" to reference the report prepared on a combined basis for a bank and its related associations and the term "bank only" to reference the report of a bank standing alone. Moreover, they requested that redesignated § 620.2(g) be revised to clarify that bank-only financial statements may be in summary form and to include additional language concerning disclosure for a bank for cooperatives (BC).

In response to these comments, the FCA has revised the last sentence of § 620.2(g) to clearly reflect that the bank-only statements that are included in the annual and quarterly bank reports may be provided in summary form. However, the combination requirement in paragraph (g) only applies when a bank has related associations. Since BCs do not have related associations, the requirement for combined financial statements does not apply.

Lastly, the FCC states that proposed § 620.2(i) appeared to require that two reports be sent to requesting shareholders—one from the association and one from its related bank—and requested that the FCA clarify what is intended by the paragraph. To clarify the requirement of § 620.2(i), the FCA has revised the final regulations to require the institution receiving the request to provide the requesting shareholder with a bank quarterly report.

3. Section 620.3—Prohibition Against Incomplete, Inaccurate, or Misleading Disclosure

The FCA proposed a new § 620.3 that expands the prohibition against incomplete, inaccurate, or misleading disclosures in connection with an election to apply to any disclosure made by a Farm Credit institution or its officers, directors, or employees to the general public concerning any matter required by part 620. Section 620.3 also requires an institution or person to make additional or corrective disclosure when a disclosure is made that is, in the judgment of the FCA, incomplete, inaccurate, or misleading.

The FCC commented that the term "incomplete" is too vague to provide appropriate guidance as to when a disclosure is, in fact, "complete." The FCC suggested using language similar to that used by the Federal Deposit Insurance Corporation (FDIC) in regulations relating to shareholder meetings. The FDIC regulation at 12 CFR 335.206 includes the phrase "omits to state any material fact necessary in order to make the statement therein not false or misleading." The FCC believes this phrase to be a more precise standard and more capable of uniform application by System banks and associations. The FCC also commented that its review of comparable Federal banking regulations failed to disclose any similar requirement for corrective statements when judged necessary by the regulator.

In response to these comments, the FCA believes that shareholders of System institutions are entitled to full and fair disclosure relating to the financial condition and operations of such institutions. The regulations in part 620 are intended to provide the minimum information necessary to constitute full and fair disclosure. Therefore, if a portion of the required information were not disclosed in the annual and quarterly reports, such as a description of material pending legal proceedings, the reports would not present full disclosure to the

shareholders. The application of the terms "incomplete," "inaccurate," and "misleading" would include situations in which a reporting institution omitted a material fact necessary in order to make the other statements made not false or misleading. However, the FCA also wishes to ensure that the prohibition covers situations in which required disclosure items are omitted that do not make other disclosures false or misleading but would result in a shareholder's receiving less than full disclosure of the financial condition and operations of the institution.

Regarding the requirement that an institution or person make additional or corrective disclosure, the FCA believes corrective disclosure is an appropriate remedy in instances where shareholders or the general public have been provided with information that does not represent full and fair disclosure. For these reasons, the FCA has determined not to make any of the suggested changes to § 620.3.

B. Subpart B—Annual Report to Shareholders

1. Section 620.4—Preparing and Distributing the Annual Report

Section 620.4 sets forth specific requirements for filing of the annual report. The section consists of the requirements contained in § 620.2 (a), (b), and (c) of the existing regulations with necessary adjustments to reflect structural changes of Farm Credit institutions. The section requires that the entire bank report (which includes financial statements of the bank and combined financial statements of the bank and its related associations as well as management's discussion and analysis (MD&A)) be distributed to association shareholders. It also includes a new statement to clarify that a bank shall coordinate its distribution of an annual report with its related associations.

2. Section 620.5—Contents of the Annual Report to Shareholders

Section 620.3 of the existing regulations has been redesignated as § 620.5. Redesignated § 620.5 requires disclosure to reflect statutory and regulatory changes regarding capital adequacy, lending authority, insurance of certain Systemwide debt obligations, participation in the Farmer Mac secondary market program, and other activities authorized or mandated by the 1987 Act. The section also requires disclosure of enforcement actions, presentation of a statement of cash flows, and a statement of changes in protected borrower capital and at-risk capital.

The FCC's letter contained a number of specific comments on this section. The FCA's responses to these comments are discussed below by paragraph.

(a) Description of business. Redesignated § 620.5(a)(3) sets forth the requirement for disclosure of the types of lending activities engaged in and financial services offered by the reporting institutions. Section 620.5(a)(3) also requires a bank to include disclosure for services offered by its related associations. Section 620.5(a)(3) of the proposed regulations referred to a bank's related associations as "associations that are its shareholders." The FCC questioned whether a bank's disclosure should include a description for an association that has terminated its System status but continues to be a shareholder of the bank. The FCA did not intend to require a bank to disclose business of a non-System institution. Although the association continues to be a shareholder of the bank, disclosure of an institution that has ceased its System status is not required. To clarify the intent of the regulation, the FCA has revised the above reference in paragraph (a)(3) by substituting the defined term "related associations" for "associations that are its shareholders." The FCC also expressed its concern on the provision requiring only banks to disclose services offered by a service organization. The FCC indicated that at some future time associations may also own service organizations to engage in Farmer Mac secondary market activities as proposed in 55 FR 9138, March 12, 1990. In response to this comment, the FCC has expanded the provision to apply to associations. Also, the requirement for a disclosure of the institution's participation in the Farmer Mac program and origination of loans for resale in § 620.5(a)(3) has been relocated to § 620.5(g)(1)(iii)(A).

Moreover, the FCC suggested that both § 620.5 (a)(3) and (a)(9), concerning a description of the business of and relationship with its related System institutions, be revised to subject these requirements to a materiality judgment. The FCA notes that the disclosure required under paragraphs (a)(3) and (a)(9) is a general description of the activities and services offered by the reporting entity and its related organizations and a brief description of the reporting entity's relationship with its related organizations. The extent of the description of the required disclosure is subject to management's materiality judgment. However, the disclosure required by these paragraphs is not subject to a materiality judgment.

Though the FCA did not propose any change to the provision, the FCC suggested that paragraph (a)(4) be amended to reduce the period to be covered in the discussion of significant business developments from 5 years to 3 years. The FCA believes that a 5-year period is necessary to show the trend of business movements and makes no change in this provision.

(b) Description of property. Redesignated § 620.5(b) includes a new statement to clarify the existing term "principal offices" as "major facilities where the institution makes and services its loans." The FCC suggested that the FCA revise the proposed clarification by using a minimum standard relating to the book value of the facility as compared to the institution's capital, or a standard relating to a minimum percentage of total loan volume to provide more precise guidance as to which facilities qualify as "principal offices." The FCA notes that disclosure in § 620.5(b) is intended to identify major office locations where the reporting institution makes and services its loans. Therefore, any measurement relative to the value of the facilities is irrelevant to why an office location must be included. Each reporting institution must exercise judgment to determine whether an office constitutes a "major facility."

(c) Legal proceedings and enforcement actions. Redesignated § 620.5(c)(2) was proposed to require disclosure of enforcement actions. The FCC suggested that the proposed requirement for disclosure of the "nature" of enforcement actions be revised to require disclosure of the "type" of enforcement actions. Paragraph (c)(2) was intended to require a reporting institution to provide a general description of the condition or circumstances giving rise to the enforcement action. The institution should always identify the type of enforcement action when disclosing the existence of such action. To clarify what is to be disclosed, the FCA has revised paragraph (c)(2) to require a disclosure of the "type of and reason for each enforcement action in effect." The language in the final regulation has also been clarified to include disclosure of prohibitions from further participation in the conduct of the affairs of the institutions as well as removals of officers and directors. In addition, in reviewing comments received on the proposed regulations, the FCA considered the requirement to disclose suspensions of officers and directors.

Due to the effect the disclosure of a suspension could have on a director or officer personally, the FCA has deleted the mandatory requirement for disclosure of suspensions in the final rule. Consequently, the determination of whether or not suspensions are to be disclosed will be made by management on a case-by-case basis depending upon the materiality of the impact of a suspension on the reporting institution. Section 620.5(c)(2) as revised is similar to the requirements of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA).

(d) Description of capital structure. Redesignated § 620.5(d) reflects statutory and regulatory requirements with respect to capitalization of Farm Credit institutions. Institutions are required to state the regulatory permanent capital standards; the institutions' capital adequacy requirements and minimum stock purchase requirements; statutory and regulatory restrictions on the distribution of earnings and retirement of stock when capital standards are not met; the regulatory requirement that banks for cooperatives add annual amounts to unallocated surplus until the unallocated surplus reaches half of the institutions' minimum permanent capital requirements; and whether the reporting institutions are currently subject to any such restrictions or requirements or know of any reason they will be subject to such requirements during the fiscal year subsequent to the fiscal year just ended.

The FCC commented that a simple statement regarding each item would be adequate and that guidance as to the nature and extent of the expected disclosure for capital-related matters is necessary. The FCA concurs with the FCC's view that a simple statement that effectively describes each of the subject matters is adequate. The FCA recognizes that the regulatory permanent capital standard is only a minimum standard, and an institution may nevertheless need more permanent capital to provide for the growth necessary to meet the needs of its borrowers and offset the risks inherent in that institution. As a result, the FCA believes that it is necessary to distinguish the regulatory minimum permanent capital standards from an institution's capital adequacy needs. Accordingly, a new § 620.5(d)(4) has been added to require a separate disclosure of the institution's capital adequacy requirements, and proposed § 620.5(d)(2) has been revised to require a description of regulatory minimum permanent capital standards and the disclosure of the institution's compliance with such standards. The final regulations also require banks to disclose the compliance of their related associations with the standards.

(e) Description of liabilities. Redesignated § 620.5(e) contains amendments to reflect the establishment of the FCSIC and the Farm Credit System Financial Assistance Corporation. The FCC contended that the requirement in § 620.5(e)(1) for a separate disclosure of insured versus uninsured debt is unnecessary and that disclosure of insured and uninsured debt would be made in accordance with GAAP if material. The FCA believes that shareholders are entitled to accurate information about the different nature and magnitude of insured and uninsured debt obligations issued by the reporting institution. Therefore, the FCA has concluded that the amounts of outstanding insured and uninsured debt are relevant and material to readers of financial statements, regardless of the quantitative materiality of the individual items.

The FCC also commented that any disclosure relative to other System institutions' responsibilities to repay obligations issued by the Farm Credit System Financial Assistance Corporation under paragraph (e)(4) would be unnecessarily complex and of no practical value to shareholders. The FCC further stated that disclosure in accordance with GAAP would meet the objective for meaningful disclosure to shareholders. The intent of § 620.5(e)(4) is to require a reporting institution to describe in general the System institutions' responsibility, as a whole, for repayment of such debt obligations. Section 620.5(e)(4) does not require a reporting institution to disclose specific repayment obligations of other System institutions. When the repayment obligation of the reporting institution is estimable, disclosure in accordance with GAAP would be required. Thus, no changes to paragraph (e)(4) are needed.

(f) Selected financial data. Redesignated § 620.5(f) is amended to conform to statutory and regulatory changes in the structure and capitalization of Farm Credit institutions. It also contains other technical changes, including the disclosure of extraordinary items and the deletion of the requirement to disclose the debt-to-capital ratio. In the final regulations, each selected item has been designated with a paragraph number for reference.

The FCC suggested that the FCA clarify whether the order and captions of the items in paragraph (f) may be altered or expanded by management to ensure the most appropriate and meaningful disclosure consistent with the other financial statements and schedules included in the annual report. The introductory paragraph of redesignated § 620.5 states that "The report shall contain the following items in substantially the same order * * *." This provision requires that discussions relating to the major caption of each paragraph that appeared in lower-case alphabetical order under § 620.5 be presented in the annual report in substantially the same order as prescribed in the regulations. However, this requirement does not apply to subissues prescribed within each of those paragraphs of § 620.5 that appeared in numerical order, Roman numeral sequence, or any other sequence. Accordingly, except for the major captions, management may expand the list under "Selected Financial Data" of § 620.5(f) and present the items prescribed thereunder in any logical order that would enhance readers' understanding of the report. In addition, the FCA does not object to System institutions' presentation of financial highlights in the form of condensed financial statements: *Provided*, That all items required are presented, and the presentation does not divert readers' attention away from significant financial indicators.

The FCC submitted two comments regarding disclosure of the permanent capital ratio (PCR). The FCC stated that the PCR of a combined entity is less meaningful than the bank-only PCR and requested the FCA to clarify that the 5-year disclosure requirement does not apply to the PCR for the years prior to the enactment of the 1987 Act. The FCA concurs with the first comment that the PCR of a combined entity is less meaningful and has modified proposed § 620.5(f) to specify that banks present the bank-only PCR. However, the FCA believes that a specific provision in the regulation to clarify that the 5-year PCR disclosure requirement does not apply to the years prior to the enactment of the 1987 Act is not necessary. It is presumed that each reporting institution is required to comply with the regulations for the years that are applicable to such institution. Therefore, disclosure of the PCR for the years prior to 1988 is not required.

The FCC further suggested that the term "allocated equities" be replaced by the term "allocated surplus." Because the suggested term "allocated surplus" is also an appropriate term for presentation of equity accounts in the financial statements, the FCA has

adopted the suggested term in the final rule.

Lastly, the FCC suggested that the FCA insert in § 620.5(f) a provision permitting the combination of insignificant items and require only material items to be disclosed similar to provisions governing quarterly reports. In response to this comment, the FCA notes that the selected financial data should be distinguished from the condensed financial statements, where the combination of insignificant items is necessary in order to make a condensed balance sheet or income statement balance. The 5-year selected financial data required is data that is relevant in the analysis of the System institutions. Such disclosure is intended to allow readers of the financial statements to analyze the institution's performance based on trends over a period of years in the items presented. In presenting the required selected data, materiality is not relevant. Because the data selected are single elements within the major financial statement captions, the totaling of individual selected items is not required. Therefore, it is unnecessary to include a provision in paragraph (f) to allow the combination of insignificant data. However, a reporting institution may omit a selected item that is not applicable to the institution.

With respect to condensed financial statements, the rules for condensation for quarterly reports are intended to allow an institution to prepare a less detailed financial report than the annual report while ensuring that any major increases or decreases since the end of the preceding fiscal year are disclosed. This takes into consideration materiality and also presumes that the users of the interim financial information have read or have access to the audited financial statements for the preceding fiscal year. Because of the difference in purpose of the quarterly reports and the 5-year selected data, the criteria for presentation of the data and the application of materiality are also different.

(g) Management's discussion and analysis of financial condition and results of operations. The amendments to redesignated § 620.5(g) reflect changes resulting from the 1987 Act and require additional disclosure in the MD&A for capital, sales and purchases of loans, and secondary market activities of the reporting institution. In view of the focus on the statutory and regulatory requirements of permanent capital and capital adequacy, the amended regulations delete the concept of "risk funds." The provision requiring banks to disclose agricultural production loans by major subcategory is also deleted. Each institution is required to discuss the adequacy of its permanent capital position and any trends, commitments, contingencies, or events that are reasonably likely to have a materially adverse effect on the institution's capital adequacy or its ability to meet minimum permanent capital standards. It also requires disclosure of any foreseeable material change in its capital plan adopted pursuant to § 615.5200 that may have an effect on the institution's minimum stock purchase requirement or its ability to retire stock and distribute earnings. In addition, in order to make the association's report more complete, each association is required to disclose its relationship with its related bank, as well as any events affecting the bank, if known, that would also materially affect the association.

Some institutions have misinterpreted the existing regulations to require that the quarterly report contain a management's discussion and analysis (MD&A) repeating much of the same information included in its annual report. The regulation only requires discussion of any material changes that have occurred since the end of the last fiscal year to be presented in an easily understandable format. For presentation of financial statements, § 620.11(b)(4) of the existing regulations states that "* * * footnote disclosure that would substantially duplicate the disclosure contained in the most recent audited financial statements (such as a statement of significant accounting policies and practices), and details of accounts that have not changed significantly in amount or composition since the end of the most recent completed fiscal year may be omitted." With respect to the MD&A, § 620.3(c) of the existing regulations states that "Discuss material changes, if any, to the information provided to shareholders pursuant to § 620.3(g) that have occurred during the periods specified * * *."

Management of each institution is responsible for ensuring that quarterly reports include an appropriate discussion regarding an institution's financial health. It need not be voluminous to comply with the disclosure regulations. As the FCA has noted in the past, institutions that include information not required by the regulations may not necessarily be making the most meaningful disclosure to shareholders. Disclosure of a large volume of information without clarity and focus does not constitute meaningful disclosure. The quarterly report should contain a concise but meaningful discussion of material changes presented in an easily understandable format. Disclosure by an institution to its shareholders of information that is not organized in an easily understandable format or is presented in a manner that is misleading would constitute a reporting deficiency pursuant to redesignated § 620.11(a).

The FCC submitted three comments on § 620.5(g). The first comment was on proposed § 620.5(g)(1)(iii), which requires disclosure of the amount of purchased loans, loans sold with recourse, retained subordinated interests in loans sold, and interest in pools of subordinated interests that are held in lieu of retaining a subordinated participation interest in the loans sold. The FCC believed that paragraph (g)(1)(iii) as proposed would potentially require extensive disclosure and suggested that the provision be amended to require only disclosure of arrangements that are significant to the institution's operation. The FCC further suggested that the FCA clarify whether this requirement is intended to apply to all participations.

The FCA does not intend redesignated § 620.5(g)(1)(iii) to apply to loans sold with no recourse. However, disclosure relating to loans sold into the Farmer Mac program without recourse is required in paragraph (g)(1)(iv)(E) of the same section. The FCA believes that the disclosure required by the proposed regulation is meaningful in that activities relating to the Farmer Mac secondary market and purchases and sales of loans involves different risk exposure than holding loans in an institution's portfolio. Disclosure required by paragraph (g)(1)(iii) is merely the "amount" of the arrangements by type; a detailed discussion of the institution's involvement is not required. However, when such arrangements are material to the institution's operations, additional disclosure of the institution's involvement and risk exposure in the arrangements is required under the provisions of § 620.5(g)(1)(iv)(B) and (E). Section 620.5(g)(1)(iii) of the proposed regulations has been redesignated as § 620.5(g)(1)(iii)(B) of the final rule.

The FCC also commented that any explanation of the basis of the calculation of ratios relating to permanent capital and at-risk capital would be too technical for a meaningful disclosure to shareholders. The FCA believes a general discussion of how the ratios are computed and the adequacy of capital is important to a shareholder's understanding of the restrictions on the distribution of earnings. The FCA

intends that the explanation be a general explanation on how the ratios are computed rather than a technical description of the computations.

The FCC also questioned whether the purpose of the proposed amendment of § 620.5(g)(4)(ii) is to require a greater quantification of data or a discussion of trends. The FCA proposed to amend paragraph (g)(4)(ii) to ensure that each institution's disclosure would cover all aspects of capital resources, i.e., protected borrower capital, permanent capital, debt obligations, and any off-balance-sheet financing, and changes thereto. The amended § 620.5(g)(4)(ii) should not be construed as seeking a greater quantification of data.

(j) Transactions with senior officers and directors. This paragraph was proposed to be amended to eliminate the reference to district Federal land banks, which no longer exist as a result of the 1987 Act. The FCC requested that the FCA clarify whether the phrase "the last full fiscal year-to-date" in the paragraph means "the last fiscal year" in the context of the annual report. The FCA clarifies the phrase in the final regulations by removing the hyphens and affirms the FCC's interpretation of the phrase in the context of the annual report.

C. Subpart C—Quarterly Report to Shareholders

1. Section 620.10—Preparing and Distributing the Quarterly Report

The final rule makes substantive changes in the distribution of bank quarterly reports to the shareholders of its related associations. The final regulations require the quarterly reports of the bank to be sent to association shareholders, except for quarters in which no significant events have occurred and no previously disclosed significant events continue to materially affect the bank and the related associations. For periods in which no significant events occur and no previously disclosed significant events continue to materially affect the related associations, bank quarterly reports are required to be made available upon request to association shareholders. Further, the final regulations require the bank to certify to the FCA that no significant events have occurred during the current quarter and no such events that occurred during previous quarters continue to have a material impact on related associations. The certification is required to be signed by the persons who are required to sign the quarterly report filed with the FCA. The regulation further require that bank quarterly reports be routinely distributed to shareholders of Federal land bank associations, which are not direct lender associations.

The FCC made several comments and suggestions regarding amended § 620.10, but was supportive of the changes in the proposed regulations modifying the requirement for routine distribution of bank quarterly reports to shareholders of direct lender associations. Regarding § 620.10(a), the FCC stated that paragraph (a) could be interpreted to exempt a bank from quarterly reporting requirements when all of the related associations in its district have direct lending authority. The FCC seeks clarification as to whether the FCA intends this result. In response to this comment, the FCA notes that the term "direct lender" should be distinguished from the term "retail lender." Farm Credit Banks are direct lenders by virtue of their authority to lend to associations, even if all retail authority has been transferred to the associations. As such, banks are required to prepare and distribute quarterly reports regardless of whether or not they exercise their direct lending authority.

Regarding § 620.10(e) and the definition of "significant event" in § 620.1(q) of the final regulations, the FCC interpreted the language of the proposed regulations as follows: During the quarter in which a bank receives or enters into an enforcement action or executes a financial assistance agreement, the bank's quarterly report would be distributed to association shareholders. In the quarters subsequent to the quarter in which the enforcement action or financial assistance agreement was put in place, the bank would not be required to distribute its quarterly report to association shareholders if no significant events which occurred during preceding quarters continue to materially affect the related associations. Therefore, the bank would be required to conduct an analysis to determine whether the occurrence of the event continued to materially affect the related associations, and, if it did not, the bank would then make the certification to the FCA that no significant events continue to affect related associations.

The FCA confirms that the FCC's interpretation is correct. The regulation is intended to require that, when a significant event described in § 620.10 occurs, the bank must distribute its quarterly report to association shareholders. For the quarters following the initial occurrence of the event, whether or not distribution is required will depend upon the materiality of the subsequent development of the event on its related associations.

The FCC further contended that the requirement of § 620.10(e) of the proposed regulations for each board member to sign the certification that no significant event has occurred is excessive and suggested that it would be sufficient to require the signature of the chairman of the board, the chief executive officer, and the disclosure officer. Due to the financial interdependence of banks and associations and the impact the significant events could have on the associations, the FCA believes that the determination of whether significant events have occurred should be made by the full board. The board must make a reasonable attempt to obtain signatures of all board members. However, the FCA is aware that, at times, an individual required to sign the certification may not sign, but the FCA does not believe that this fact alone should require distribution of bank quarterly reports when they would not otherwise be required to be distributed. Therefore, in the final regulations, the FCA has revised paragraph (e) to require the certification to be signed by the same persons who are required to certify for the filing of the report with the FCA pursuant to redesignated § 620.2(b)(3). If a majority of the board of directors decides that no significant events have occurred or continue to have a material impact on related associations and signs the certification, the report need not be distributed. In such instances, the certification would be sent to the FCA with the names of the individuals who did not sign and a statement as to why they did not sign. However, if a majority of the board of directors is unable or refuses to sign the certification, the bank must distribute its quarterly report to association shareholders.

The FCC also suggested that the certification reference the definition of "significant event" in § 620.1(q). The FCA has revised the certification as suggested and also inserted the qualifier, "that are direct lenders," after "related associations" because a bank is only required to certify for its related direct lender associations.

Lastly, the FCC suggested that it is appropriate for associations to insert a disclosure of the procedures regarding distribution of bank reports only if the associations and bank elect to change their procedures in accordance with the proposed regulations. The FCC also suggested that § 620.10(g) of the proposed regulations state that the disclosure is required to be made after

the effective date of the "subsection," rather that the effective date of the "amendment." Because the revised procedures for distribution of bank quarterly reports to association shareholders apply to all banks and associations and the revision constitutes a regulatory change, the FCA believes shareholders should be informed of the change even if the banks and associations do not intend to change the routine distribution of bank quarterly reports immediately. Section 620.10(g) has been revised to substitute the "paragraph" for the word "amendment."

2. Section 620.11—Content of Quarterly Report to Shareholders

Amendments were proposed to § 620.11 of the existing regulations to clarify current FCA requirements and to require a statement of cash flows in the disclosure regulations. Amended § 620.11 requires banks to publish the statement of cash flows on a quarterly basis and associations to publish the quarterly statement of cash flows at their option. The FCA believes that the quarterly statement of cash flows is less meaningful for an association than for a bank, since associations obtain funding from their related banks and loan payments received are seasonal.

The FCC requested that proposed § 620.11(d) be further amended to allow banks to prepare the quarterly statement of cash flows at their option. The FCA believes that banks should be required to publish the combined statement of cash flows on a quarterly basis, as the statement provides meaningful information to shareholders and holders of bank obligations. The statement of cash flows is, in part, intended to assess a reporting entity's ability to generate positive future net cash flows to meet its obligations and pay dividends and to assess its needs for external financing. Since Farm Credit banks issue debt obligations to the general public to obtain funding from external sources, this necessitates that banks publish the statement of cash flows on a quarterly basis. The FCC also suggested that the word "required" be changed to "provided" in proposed § 620.11(b). The FCA has made this change in the final regulations.

D. Subpart D—Association Annual Meeting Information Statement and Subpart E—Bank Director Disclosure Requirements

Subparts D and E of part 620 of the existing regulations were proposed to be revised to correctly reference the redesignated sections of part 620. These are conforming changes only and have been adopted as proposed.

III. Part 621—Accounting and Reporting Requirements

A. Subpart A—Accounting Requirements

1. Section 621.2—Definitions

The FCA proposed a technical amendment to the definition of "formally restructured loans" to clarify that the disclosure of formally restructured loans should be made in accordance with GAAP. The FCC made no comment on the proposed amendment but suggested that the supplementary information regarding this change contained in the proposed regulations be included in the final regulations. As stated in the supplementary information of the proposed regulations, existing § 621.2(a)(8) refers to "formally restructured" as defined in Statement of Financial Accounting Standards (SFAS) No. 15, Accounting by Debtors and Creditors for Troubled Debt Restructuring (SFAS No. 15), issued by the Financial Accounting Standards Board. In the second sentence of § 621.2(a)(8), it further states that, "After a loan is classified as 'formally restructured,' it shall continue to be classified as formally restructured until it is fully paid off or otherwise discharged." However, paragraph 40(a) of SFAS No. 15, which describes disclosure requirements for troubled debt restructuring, provides that a "* * * receivable whose terms have been modified need not be included in that disclosure if, subsequent to restructuring, its effective interest rate * * * has been equal to or greater than the rate that the creditor was willing to accept for a new receivable with comparable risk." As a result, some have questioned whether the regulation adequately reflects the possibility that, under SFAS No. 15, a restructured loan would no longer be considered formally restructured if, as a result of fluctuations in the interest rates on new receivables, the effective interest rate on a restructured loan is considered a market rate, i.e., the rate that the creditor was willing to accept for a new receivable with comparable risk. To prevent any further confusion, the FCA has amended § 621.2(a)(8) by deleting the second sentence, which has been interpreted as requiring, without exception, that a loan continue to be disclosed as "formally restructured" until it is fully paid off or otherwise discharged.

It should be noted that this change only addresses the issue of whether or not a loan shall be reported as a restructured loan in an institution's financial statements in accordance with the requirements of SFAS No. 15. For purposes other than reporting the loan in the financial statements in accordance with SFAS No. 15, the loan may still be considered a restructured loan.

List of Subjects in 12 CFR Parts 611, 620 and 621

Accounting, Agriculture, Banks, Banking, Credit, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Rural areas.

For the reasons stated in the preamble, parts 611, 620, and 621 of chapter VI, title 12 of the Code of Federal Regulations are amended as follows:

PART 611—ORGANIZATION

1. The authority citation for part 611 continues to read as follows:

Authority: Secs. 1.3, 1.13, 2.0, 2.10, 3.0, 3.21, 4.12, 4.15, 5.0, 5.9, 5.10, 5.17, 7.0–7.13; 12 U.S.C. 2011, 2021, 2071, 2091, 2121, 2142, 2183, 2203, 2221, 2243, 2244, 2252, 2279a–2279f–1; secs. 411 and 412 of Pub. L. 100–233.

Subpart L—Liquidation of Associations

§ 611.1168 [Amended]

2. Section 611.1168 is amended by removing the references, "part 620, subpart A", "§ 620.3", "§ 620.2(e)", and "§ 620.2(f)" and adding in their places, the references, "§ 620.2 and subpart B of part 620", "§ 620.5", "§ 620.2(b)", and "§ 620.2(c)" in the first, second, and third sentences of paragraph (d) introductory text, respectively; by removing the reference, "§ 620.3(c)" and adding in its place, the reference "§ 620.5(c)" in paragraph (d)(2); by removing the reference, "§ 620.3(1)" and adding in its place, the reference "§ 620.5(1)" in paragraph (d)(3); by removing the reference, "subpart B" and adding in its place, the references "§ 620.2 and subpart C" in the first sentence of paragraph (e) introductory text; and by removing the reference, "§ 620.10(d)" and adding in its place, the reference "§ 620.2(b)" in the second sentence of paragraph (e) introductory text.

Subpart M—Liquidation of Banks

§ 611.1175 [Amended]

3. Section 611.1175 is amended by removing the references, "part 620, subpart A", "§ 620.3", "§ 620.2(e)", and "§ 620.2(f)" and adding in their places, the references "§ 620.2 and subpart B of part 620", "§ 620.5", "§ 620.2(b)", and "§ 620.2(c)" in the first, second, and third sentences of paragraph (d)

introductory text, respectively; by removing the reference, "§ 620.3(c)" and adding in its place, the reference, "§ 620.5(c)" in paragraph (d)(2); by removing the reference, "§ 620.3(1)" and adding in its place, the reference "§ 620.5(1)" in paragraph (d)(3); by removing the reference, "subpart B", and adding in its place, the references, "§ 620.2 and subpart C" in the first sentence of paragraph (e) introductory text; and by removing the reference, "§ 620.10(d)" and adding in its place, the reference "§ 620.2(b)" in the second sentence of paragraph (e) introductory text.

Subpart N—Conservators and Conservatorships of Banks and Associations

§ 611.1182 [Amended]

4. Section 611.1182 is amended by removing the references "§§ 620.2(e), 620.3(m) (3), 620.10(d), and 620.20(e) and (f)" and adding in their place, the references "§§ 620.2(b), 620.2(c), and 620.5(m)(2)" in paragraph (d).

PART 620—DISCLOSURE TO SHAREHOLDERS

5. The authority citation for part 620 continues to read as follows:

Authority: Secs. 5.17, 5.19, 8.11; 12 U.S.C. 2252, 2254, 2279aa–11; sec. 424 of Pub. L. 100–233.

Subparts B, C, D, and E [Redesignated as C, D, E, and F]

6. Subparts B, C, D, and E are redesignated as new subparts C, D, E, and F.

6A. A new Subpart B—Annual Report to Shareholders is added.

§ 620.3 [Redesignated as § 620.5]

7. Section 620.3 is redesignated as new § 620.5 in subpart B.

8. Subpart A is amended by revising the heading to read as follows:

Subpart A—General

9. Section 620.1 is amended by adding introductory text; removing existing paragraph (i); redesignating paragraphs (b), (c), (d), (e), (f), (g), (h), and (j) as new paragraphs (o), (e), (f), (g), (h), (i), (n), and (p); adding new paragraphs (b), (c), (d), (j), (k), (l), (m), and (g); and revising newly redesignated paragraphs (g) and (i) to read as follows:

§ 620.1 Definitions.

For the purpose of this part, the following definitions shall apply:

* * * * *

(b) *Association* means any of the associations as described in § 619.9050 of this chapter.

(c) *Bank* means any of the Farm Credit banks as described in § 619.9140 of this chapter.

(d) *Direct lender association* means any association that is a direct lender as described in § 619.9135 of this chapter.

* * * * *

(g) *Loan* means any extension of credit or lease that is recorded as an asset of a reporting institution, whether made directly or purchased from another lender. The term "loan" includes, but is not limited to, loans originated through direct negotiations between the reporting institution and a borrower; purchased loans or interests in loans, including participation interests, retained subordinated participation interests in loans sold, interests in pools of subordinated participation interests that are held in lieu of retaining a subordinated participation interest in loans sold; contracts of sale; notes receivable; and other similar obligations and lease financings.

* * * * *

(i) *Normal risk of collectibility* means the ordinary risk inherent in the lending operation. Loans that are deemed to have more than a normal risk of collectibility include, but are not limited to, any loans properly identifiable as "nonperforming" as defined in § 621.2(a)(17) of this chapter.

(j) *Permanent capital* shall have the same meaning as set forth in § 615.5201(h) of this chapter.

(k) *Protected borrower capital* means eligible borrower stock as defined in § 615.5260 of this chapter.

(l) *Related association* means an association within the reporting bank's chartered territory that generates loans for the bank or whose operations the bank funds.

(m) *Related bank* means a reporting association's funding bank or the bank for which it generates loans.

* * * * *

(q) *Significant event* means any event that is likely to have a material impact on the reporting institution's financial condition, results of operations, cost of funds, or reliability of sources of funds. The term "significant event" includes, but is not limited to, actual or probable noncompliance with the regulatory minimum permanent capital standards or capital adequacy requirements, stock impairment, the imposition of or entering into enforcement actions, execution of financial assistance agreements with other institutions, collateral deficiencies that impact a bank's ability to obtain loan funds, or defaults on debt obligations.

10. Section 620.2 is amended by revising the heading; adding introductory text; redesignating paragraphs (a), (b), and (c) as new § 620.4, paragraphs (a), (b), and (c) in subpart B; removing paragraph (j); redesignating paragraphs (d), (e), (f), (g), (h), (i), and (k) as new paragraphs (a), (b), (c), (d), (e), (f), and (g); adding new paragraphs (h) and (i); removing the reference "paragraph (e)" and adding in its place "paragraph (b)" in newly redesignated paragraph (c); removing the words "this subpart" and adding in their place "subparts B and D" in newly redesignated paragraph (f); and revising newly redesignated paragraphs (a), (b)(3) attestation text, and (g) to read as follows:

§ 620.2 Preparing and filing the reports.

For the purposes of this part, the following shall apply:

(a) Three complete copies of each report or information statement required by this part (for the purpose of this section, referred to as "report" unless otherwise specified), including financial statements and related schedules, exhibits, and all other papers and documents that are part of the report shall be filed with the Chief Examiner, Farm Credit Administration, McLean, Virginia 22102–5090, or with such other Farm Credit Administration offices as the Chief Examiner designates. The report shall be received by the Farm Credit Administration within the period prescribed under applicable sections of individual subparts regarding preparation and distribution of the report. The annual and quarterly reports shall be available for public inspection at the issuing institution and the Farm Credit Administration office with which the reports are filed. Bank reports shall also be available for public inspection at each related association office.

(b) * * *

(3) * * *

The undersigned certify that this report has been prepared in accordance with all applicable statutory and regulatory requirements and that the information contained herein is true, accurate, and complete to the best of his or her knowledge and belief.

* * * * *

(g) Each annual and quarterly report of a bank shall present the financial statements of the bank and its related associations on a combined basis. The report shall also include, at a minimum, the statement of condition and statement of income for the bank only. The bank-only statements may be in summary form and shall disclose the basis of presentation if different from

the accounting policies of the combined bank and association statements.

(h) Each association shall include a statement in a prominent location within each annual and quarterly report that the shareholders' investment in the association is materially affected by the financial condition and results of operations of the related bank and that a copy of the bank quarterly report is available upon request free of charge.

(i) Each annual and quarterly report shall include addresses and telephone numbers where association shareholders may obtain copies of bank quarterly reports. Upon request, the institution receiving the request shall promptly mail or deliver a bank quarterly report to the requesting shareholder free of charge.

11. A new § 620.3 is added to subpart A to read as follows:

§ 620.3 Prohibition against incomplete, inaccurate, or misleading disclosure.

No institution and no employee, officer, director, or nominee for director of the institution shall make any disclosure to shareholders or the general public concerning any matter required to be disclosed by this part that is incomplete, inaccurate, or misleading. When any such person makes disclosure that, in the judgment of the Farm Credit Administration, is incomplete, inaccurate, or misleading, whether or not such disclosure is made in disclosure statements required by this part, such institution or person shall make such additional or corrective disclosure as is necessary to provide shareholders and the general public with a full and fair disclosure.

12.–13. Newly redesignated § 620.4 is amended by adding a new section heading; revising paragraph (b); and removing the reference to "§ 620.3" and adding in its place "§ 620.5" in paragraph (c) to read as follows:

§ 620.4 Preparing and distributing the annual report.

* * * * *

(b) Each bank shall distribute its annual report to the shareholders of related associations within the period required by paragraph (a) of this section. Each bank shall coordinate such distribution with its related associations.

* * * * *

14. Newly designated § 620.5 is amended by removing the words "mergers or consolidations" and adding in their place "changes in the reporting entity" in paragraph (a)(4); adding the words ", i.e., headquarters, and major facilities where the institution makes and services its loans," after the word "principal offices" in paragraph (b); revising paragraph (c) heading; redesignating existing paragraph (c) text as new paragraph (c)(1); adding new paragraph (c)(2); removing the words "in the institution's judgment" from paragraph (g)(2)(v); revising paragraphs (a)(3), (a)(9), (d), (e)(1), (e)(2), (f), (g) introductory text, (g)(1)(i), (g)(2)(ii), (g)(2)(iii), (g)(4)(ii), (j)(3)(i), and (m)(1); removing paragraph (m)(2); redesignating existing paragraphs (g)(1)(iii), (g)(2)(vi), (g)(4)(v), and (m)(3) as new paragraphs (g)(1)(iv), (g)(2)(vii), (g)(4)(vi), and (m)(2); adding paragraphs (e)(4), (g)(1)(iii), (g)(1)(iv)(E), (g)(2)(vi), (g)(3)(ii)(C), and (g)(4)(v); and revising redesignated paragraph (g)(1)(iv) heading, paragraph (g)(1)(iv)(D), and paragraph (g)(4)(vi) to read as follows:

§ 620.5 Contents of the annual report to shareholders.

* * * * *

(a) *Description of business.* * * *

(3) The types of lending activities engaged in and financial services offered. Each bank shall also briefly describe the lending and financial services offered by its related associations, as well as financial services offered to the borrowers in the bank's chartered territory by any service organization in which it has an ownership interest. Each association shall briefly describe the lending and financial services offered by its related organizations or incorporate by reference relevant portions of the related bank's report, if such report is distributed to association shareholders;

* * * * *

(9) A brief description of the business of any related Farm Credit institution, as described in § 619.9146 of this chapter, and the nature of the institution's relationship with such organization.

* * * * *

(c) *Legal proceedings and enforcement actions.* * * *

(2) Describe the type of and reason for each enforcement action in effect, i.e., agreements, cease and desist orders, temporary cease and desist orders, prohibitions and removals of officers or directors, or civil money penalties, if any, imposed or assessed on the institution or its officers or directors and the amount of any civil money penalties assessed.

(d) *Description of capital structure.*

(1) Describe each class of stock and participation certificates the institution is authorized to issue and the rights, duties, and liabilities of each class. The description shall include:

(i) The number of shares of each class outstanding;

(ii) The par or face value;

(iii) The voting and dividend rights;

(iv) The order of priority upon impairment or liquidation;

(v) The institution's retirement policies and restrictions on transfer;

(vi) The statutory requirement that a borrower purchase stock as a condition to obtaining a loan;

(vii) The manner in which the stock is purchased (i.e., promissory note to the issuer, or cash not advanced by issuing institution);

(viii) The statutory authority of the institution to require additional capital contributions, if any; and

(ix) The statutory and regulatory restrictions regarding retirement of stock and distribution of earnings, and for banks for cooperatives, the amount required to be added to the unallocated surplus, pursuant to §§ 615.5215 and 615.5330 of this chapter.

(2) Describe regulatory minimum permanent capital standards, and the institution's compliance with such standards. For banks, also discuss any related associations that are not currently in compliance with the standards.

(3) State whether the institution is currently prohibited from retiring stock or distributing earnings by the statutory and regulatory restrictions described in paragraph (d)(1)(ix) of this section, or knows of any reason such prohibitions may apply during the fiscal year subsequent to the fiscal year just ended.

(4) Describe the institution's capital adequacy requirements and the minimum stock purchase requirement in effect.

(e) *Description of liabilities.* (1) Describe separately the institution's insured and uninsured debt, indicating the type, amount, maturity, and interest rates of each category of obligations outstanding at the end of the fiscal year just ended. Describe the nature of the insurance provided under part E of title V of the Act. Describe any applicable statutory and regulatory restrictions on the institution's ability to incur debt.

(2) Describe fully the institution's rights and obligations under any agreement, formal or informal, between the institution and any other person or entity having to do with capital preservation, loss sharing, or any other form of financial assistance.

* * * * *

(4) Describe the statutory responsibility of Farm Credit System institutions for repayment of obligations issued by the Farm Credit System Financial Assistance Corporation.

(f) *Selected financial data.* Furnish in comparative columnar form for each of

the last 5 fiscal years the following financial data:

(1) *For banks and direct lender associations.*

(i) *Balance sheet.*

(A) Total assets.

(B) Investments.

(C) Loans.

(D) Allowance for losses.

(E) Net loans.

(F) Acquired property.

(G) Total liabilities.

(H) Obligations with maturities less than 1 year.

(I) Obligations with maturities longer than 1 year.

(J) Protected borrower capital.

(K) *At-risk capital.*

(*1*) Stock and participation certificates.

(*2*) Allocated surplus.

(*3*) Unallocated surplus.

(ii) *Statement of income.*

(A) Net interest income.

(B) Provision for loan losses.

(C) Extraordinary items.

(D) Net income.

(iii) *Key financial ratios.*

(A) Return on average assets.

(B) Return on average protected borrower capital and at-risk capital.

(C) Net interest margin as a percentage of average earning assets.

(D) Protected and at-risk capital-to-total assets.

(E) Net chargeoffs-to-average loans.

(F) Allowance for loan losses-to-loans.

(iv) *Net income distributed.*

(A) Dividends.

(B) *Patronage refunds.*

(*1*) Cash.

(*2*) Stock.

(*3*) Allocated surplus.

(2) *For associations that are not direct lender associations.*

(i) *Balance sheet.*

(A) Total assets.

(B) Accrued obligation under loss-sharing agreement, if any.

(C) Protected borrower capital.

(D) At-risk capital.

(ii) *Statement of income.*

(A) Compensation from related bank.

(B) Total operating expense.

(C) Extraordinary items.

(D) Provision for obligation under capital preservation or loss-sharing agreement, if any.

(E) Net income.

(iii) *Other.*

(A) Loans serviced for related bank.

(B) Dividends paid.

(C) *Patronage refunds paid.*

(*1*) Cash.

(*2*) Stock.

(*3*) Allocated surplus.

(D) Payments under loss-sharing agreement.

(3) *For all institutions.*

(i) Permanent capital ratio (for associations); or

(ii) Bank-only permanent capital ratio (for banks).

(g) *Management's discussion and analysis of financial condition and results of operations.* Fully discuss any material aspects of the institution's financial condition, changes in financial condition, and results of operations during the last 2 fiscal years, identifying favorable and unfavorable trends, and significant events or uncertainties. In addition to the items enumerated below, the discussion shall provide such other information as is necessary to an understanding of the institution's financial condition, changes in financial condition, and results of operations.

(1) *Loan portfolio.* (i) Describe the types of loans in the portfolio by major category (e.g., agricultural real estate mortgage loans, rural home loans, agricultural production loans, processing and marketing loans, farm business loans, and international loans), indicating the approximate percentage of the total dollar portfolio represented by each major category. Associations that make agricultural production loans shall provide the information required for such loans by major subcategory (e.g., cash grains, field crops, livestock, dairy, poultry, and timber). For each category and subcategory, discuss any special features of the loans that may be material to the evaluation of risk and any economic or business conditions that have had or are likely to have a material impact on their collectibility. For banks, also disclose separately the aggregate amount of loans outstanding to related associations and other financial institutions.

* * * * *

(iii) *Purchases and sales of loans.* (A) Describe any participation in the Federal Agricultural Mortgage Corporation program or origination of loans for resale.

(B) Disclose the amount of purchased loans, loans sold with recourse, retained subordinated participation interests in loans sold, and interests in pools of subordinated participation interests that are held in lieu of retaining a subordinated participation interest in the loans sold.

(iv) *Risk exposure.* * * *

(D) For banks, a description in the aggregate of the recent loss experience of related associations that are its shareholders, including the items enumerated in paragraphs (g)(1)(iv) (A), (B), and (C) of this section.

(E) Describe any obligations with respect to loans sold and the amount of any contributions made in connection with loans sold into the secondary market pursuant to § 8.7 of the Act. Further disclose the amount of risk of loss associated with such obligations and the amount included in the allowance for losses to provide for such risk.

(2) *Results of operations.* * * *

(ii) Describe any unusual or infrequent events or transactions or any significant economic changes, including, but not limited to, financial assistance received or paid that materially affected reported income. In each case, indicate the extent to which income was so affected.

(iii) Discuss the factors underlying the material changes, if any, in the return on average assets, the return on average protected borrower capital and at-risk capital, and the permanent capital ratio as determined in accordance with part 615, subpart H of this chapter. An explanation of the basis of the calculation of ratios relating to permanent capital and at-risk capital shall be included.

* * * * *

(vi) For associations, discuss any events affecting a related organization that are likely to have a material impact on the associations' financial condition, results of operations, cost of funds, or reliability of sources of funds.

* * * * *

(3) *Liquidity and funding sources.* * * *

(ii) *Liquidity.* * * *

(C) Discuss the institution's participation in the Federal Agricultural Mortgage Corporation secondary market programs authorized by title VIII of the Act and the origination of loans for resale under other authorities, if any.

* * * * *

(4) *Capital resources.* * * *

(ii) Describe any material trends or changes in the mix and cost of debt and capital resources. The discussion shall consider changes in protected borrower capital, permanent capital, debt, and any off-balance-sheet financing arrangements.

* * * * *

(v) Discuss the adequacy of the current permanent capital position and any material changes in the capital plan adopted pursuant to § 615.5200 of this chapter, to the extent that such changes may have an effect on the institution's minimum stock purchase requirements and its ability to retire stock and distribute earnings.

(vi) Discuss any trends, commitments, contingencies, or events that are reasonably likely to have a materially adverse effect upon the institution's ability to meet the regulatory minimum permanent capital standards and capital adequacy requirements.

* * * * *

(j) *Transactions with senior officers and directors.* * * *

(3) *Loans to senior officers and directors.* (i) To the extent applicable, state that the institution (or in the case of an association that does not carry loans to its senior officers and directors on its books, its related bank) has had loans outstanding during the last full fiscal year to date to its senior officers and directors, their immediate family members, and any organizations with which such senior officers or directors are affiliated with:

* * * * *

(m) *Financial statements.* (1) Furnish financial statements and related footnotes that have been prepared in accordance with generally accepted accounting principles and instructions and other requirements of the Farm Credit Administration and that have been audited in accordance with generally accepted auditing standards by a qualified public accountant, as defined in § 621.2(a)(21) of this chapter, and an opinion expressed thereon. The statements shall include the following statements and related footnotes for the last 3 fiscal years: balance sheet, statement of income, statement of changes in protected borrower capital and at-risk capital, and statement of cash flows.

* * * * *

Subpart C—Quarterly Report to Shareholders

15. Section 620.10 is revised to read as follows:

§ 620.10 Preparing and distributing the quarterly report.

(a) Each institution that is a direct lender shall prepare and distribute to its shareholders a quarterly report within 45 days after the end of each fiscal quarter, except that no report need be prepared for the fiscal quarter that coincides with the end of the fiscal year of the institution.

(b) Except as provided in paragraphs (e) and (f) of this section, each bank shall distribute its quarterly reports to shareholders of related associations within the period required by paragraph (a) of this section. Each bank shall coordinate such distribution with its related associations.

(c) The report shall contain, at a minimum, the information specified in § 620.11 and, in addition, such other material information as is necessary to make the required disclosures, in light of the circumstances under which they are made, not misleading.

(d) Distribution to shareholders may be by mail or by publication in newspapers or periodicals in the trade area of wide enough circulation to be reasonably assured that all of the institution's shareholders are reached on a timely basis.

(e) A bank is not required to distribute its quarterly reports to shareholders of related associations that are direct lender associations for those quarters in which no significant events have occurred or no significant events which occurred during the preceding quarters continue to materially affect the related associations. For each quarter in which no distribution is made, the bank shall certify to the Farm Credit Administration as follows:

> The undersigned certify that for the period between the end of the preceding fiscal quarter and the end of the most recent fiscal quarter, no significant events (as defined in § 620.1(q)) have occurred which are likely to have a material impact on related associations that are direct lenders or no significant events which occurred during the preceding quarters continue to materially affect such related associations.

The certification shall accompany the quarterly report filed with the FCA and shall be dated and signed by:

(1) The person designated by the board of directors to certify the reports of condition and performance in accordance with § 621.12 of this chapter,

(2) The chief executive officer, and

(3) Each member of the board.

The name and position title of each person signing the certification shall be typed or printed beneath his or her signature. If any officer or any member of the board is unable to or refuses to sign the certification, the bank shall disclose the individual's name and position title and the reasons such individual is unable or refuses to sign the report. If a majority of the board of directors is unable to or refuses to sign the certification, the bank must distribute its quarterly report to shareholders of related direct lender associations.

(f) For each quarter in which distribution of bank quarterly reports to association shareholders is not made pursuant to paragraph (e) of this section, copies of bank quarterly reports shall be made available free of charge to shareholders of related associations promptly upon request by the shareholder to the issuing bank or to the association of which the requestor is a shareholder.

(g) Each direct lender association shall include a statement in the first annual and first quarterly reports issued after the effective date of this paragraph explaining the regulatory changes in the distribution of bank quarterly reports and the new procedures under which association shareholders can obtain the bank quarterly reports.

16. Section 620.11 is amended by revising paragraph (a); adding (b) introductory text; removing paragraph (b)(3); redesignating existing paragraphs (b)(4), (b)(5), (b)(6), (b)(7), (b)(8), and (b)(9) as new paragraphs (b)(3), (b)(4), (b)(5), (b)(6), (b)(7), and (b)(8); removing the words ", in the opinion of management," from redesignated paragraph (b)(8); removing the reference "§ 620.3(g)" and adding in its place "§ 620.5(g)" in paragraph (c) introductory text; revising paragraph (d)(3); and adding new paragraph (d)(4) to read as follows:

§ 620.11 Content of quarterly report to shareholders.

(a) *General.* The information required to be included in the quarterly report may be presented in any format deemed suitable by the institution, except as otherwise required by this section. The report must be organized in an easily understandable format and not presented in a manner that is misleading.

(b) *Rules for condensation.* For purposes of this section, major captions to be provided in the financial statements are the same as those provided in the financial statements contained in the institution's annual report to shareholders, except that the financial statements included in the quarterly report may be condensed into major captions in accordance with the rules prescribed under this paragraph and paragraph (f) of this section.

* * * * *

(d) *Financial statements.* * * *

(3) Interim statements of changes in protected borrower capital and at-risk capital for the period between the end of the preceding fiscal year and the end of the most recent fiscal quarter, and for the comparable period for the preceding fiscal year.

(4) For banks, interim statements of

cash flows for the period between the end of the preceding fiscal year and the end of the most recent fiscal quarter, and for the comparable period for the preceding fiscal year. For associations, interim statements of cash flows are optional.

* * * * *

Subpart D—Association Annual Meeting Information Statement

17. Section 620.20 is amended by removing the references "subpart A" and "subpart B" and adding in their place "subpart B" and "subpart C," respectively, in paragraph (c); removing paragraphs (d), (e), (f), (g), and (h); and revising the section heading to read as follows:

§ 620.20 Preparing and distributing the information statement.

§ 620.21 [Amended]

18. Section 620.21 is amended by removing the references "§ 620.3.(j)" "§ 620.3(k)", "§ 620.3 (j) and (k)", "§ 620.3 (j) and (k)" and adding in their place the references "§ 620.5(j)", "§ 620.5 (k)", "§ 620.5 (j) and (k)", and § 620.5 (j) and (k)" in paragraph (c)(4), respectively; and by removing the reference "§ 620.3 (j) and (k)" and adding in its place the reference "§ 620.5 (j) and (k)" in the first and second sentences of paragraph (d)(5).

§ 620.22 [Removed]

19. Section 620.22 is removed.

Subpart E—Bank Director Disclosure Requirements

§ 620.32 [Removed]

20. Section 620.32 is removed.

PART 621—ACCOUNTING AND REPORTING REQUIREMENTS

21. The authority citation for part 621 continues to read as follows:

Authority: Secs. 5.17, 8.11; 12 U.S.C. 2252, 2279aa–11.

Subpart A—Accounting Requirements

§ 621.2 [Amended]

22. Section 621.2 is amended by removing the second sentence from the introductory text of paragraph (a)(8).

Dated: June 18, 1991.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 91–15023 Filed 6–26–91; 8:45 am]

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DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 776, 779, and 799

[Docket No. 910518–1118]

Foreign Policy Controls on Equipment and Technical Data Used in the Development of Nuclear-Capable Missiles; Revisions

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Export Administration maintains the Commodity Control List (CCL), which identifies those items subject to Department of Commerce export controls. This final rule amends a number of Export Control Commodity Numbers (ECCNs) on the CCL to conform with U.S. foreign policy controls on equipment and technical data related to the design, development, production, or use of nuclear weapons delivery systems described in § 776.18 of the Export Administration Regulations (EAR). These foreign policy controls are maintained by the United States in consultation with other countries that participate in the Missile Technology Control Regime (MTCR).

Specifically, this rule revises certain ECCNs on the CCL to correctly reference which items are subject to U.S. foreign policy controls that are designed to limit the proliferation of nuclear-capable missiles. In certain instances, the addition or removal of a reference to these foreign policy controls, in the Reason for Control paragraph of a particular ECCN, will affect the eligibility of an item for export under General License GCT. When this occurs, the ECCN under which the item is controlled will be revised to reflect this change in eligibility by revising, adding, or removing the Commodities Not Eligible for General License GCT paragraph found in the ECCN.

The changes made by this rule will increase the scope for these foreign policy controls for certain ECCNs. For other ECCNs, these controls will be reduced or will remain unchanged. Accordingly, the net effect of these changes on export licensing will be limited.

EFFECTIVE DATE: This rule is effective June 27, 1991.

FOR FURTHER INFORMATION CONTACT: Willard Fisher, Office of Technology and Policy Analysis, Bureau of Export Administration, Telephone: (202) 377–3856.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce maintains foreign policy controls on certain equipment and technical data on the Commodity Control List (CCL) that are related to the design, development, production, or use of nuclear weapons delivery systems described in § 776.18 of the EAR. The items on the CCL that are subject to these foreign policy controls are included in the "Equipment and Technology Annex" (the Annex) maintained by the governments participating in the Missile Technology Control Regime (MTCR). As agreed by all MTCR participating governments, items contained on the Annex are controlled by these governments through the implementation of national export control programs. Annex items are subject to control because of concerns relating to the proliferation of nuclear weapons delivery systems.

This final rule revises certain Export Control Commodity Numbers (ECCNs) on the CCL to conform to the Annex language. These revisions are based on multilateral technical consultations with MTCR countries for the purpose of harmonizing national interpretations of the Annex. Hence, the revisions made by this rule help to ensure that the same items controlled by the United States in meeting its MTCR obligations are similarly controlled by other MTCR participating countries.

This rule revises ECCNs 1548A, 1561A, 1733A, and 1763A to indicate that certain items listed under these entries are subject to U.S. foreign policy controls on the nonproliferation of nuclear weapons delivery systems. ECCN 1564A is revised to indicate that these foreign policy controls apply only to certain analog-to-digital converters having the characteristics described in paragraph (a)(1) or (a)(2) of that entry. New ECCNs 4131B and 4133B are created to clarify that validated license requirements apply to certain pumps and valves usable for nuclear weapons delivery systems. ECCNs 1361A, 1485A, and 1501A are revised to reference the items in each entry that are subject to foreign policy controls on nuclear weapons delivery systems.

This rule removes ECCNs 4529B and 4587B from the CCL since the items under these entries are not included on the MTCR Annex and, thus, are not subject to these foreign policy controls. ECCNs 1516A, 1517A, 1519A, 1533A, and 1715A are revised to remove all references to the application of these foreign policy controls, since none of the items controlled by these entries is included on the MTCR Annex.

Supplement No. 4 to part 779 is amended as follows: To add new technical data entries for ECCNs 4131B, 4133B, 1548A, 1561A, 1733A, and 1763A; to revise the existing entries for ECCNs 1361A, 1485A, 1501A, and 1564A; and to remove the entries for ECCNs 1516A, 1517A, 1529A, 4529B, 4587B, and 1715A.

Rulemaking Requirements

1. This rule is consistent with Executive Orders 12291 and 12661.

2. This rule involves collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under control numbers 0694–0005, 0694–0007, 0694–0010, 0694–0013, 0694–0015, and 0694–0021.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553) or by any other law, under sections 603(a) and 604(a) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

5. The provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a foreign and military affairs function of the United States. No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Willard Fisher, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects

15 CFR Parts 776 and 799

Exports, Reporting and recordkeeping requirements.

15 CFR Part 779

Computer technology, Exports, Reporting and recordkeeping requirements, Science and technology.

Accordingly, parts 776, 779, and 799 of the Export Administration Regulations (15 CFR parts 730–799) are amended as follows:

1. The authority citation for 15 CFR part 776 continues to read as follows:

Authority: Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended; Pub. L. 95–223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95–242, 92 Stat. 141 (42 U.S.C. 2139(a)); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990); and E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990).

2. The authority citation for 15 CFR parts 779, and 799 is revised to read as follows:

Authority: Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended; Pub. L. 95–223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990); and E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990).

PART 776—[AMENDED]

3. Section 776.18 is amended by revising the section heading and the introductory text to read as follows:

§ 776.18 Equipment and related technical data for the development of missiles capable of delivering nuclear weapons.

In support of U.S. foreign policy to limit the proliferation of missiles that are capable of delivering nuclear weapons, an individual validated license is required to export certain equipment and technical data related to the development and production of such nuclear-capable missiles to Country Groups QSTVWYZ. The specific commodities appear within ECCNs 2018A, 2118A, 4118B, 4131B, 4133B, 4302B, 1357A, 1361A, 1362A, 1385A, 1460A, 1485A, 1501A, 4518B, 1531A, 1548A, 1561A, 1564A, 1565A, 1568A, 4568B, 1595A, 1733A, 1746A, and 1763A.

* * * * *

PART 779—[AMENDED]

Supplement No. 4. to Part 779 [Amended]

4. Supplement No. 4 to part 779 (Additional Specifications for Certain Technical Data Requiring a Validated License to all Destinations Except Canada) is amended:

a. By revising the introductory text of paragraph (4), Technical data;

b. By revising in paragraph (4) the heading of the entry for ECCN 1131A to read "ECCN 4131B" and adding a new entry for ECCN 4133B immediately preceding the entry for ECCN 4302B;

c. By revising in paragraph (4) the entries for ECCN 4302B, ECCN 1361A, ECCN 1362A, ECCN 1460A, and ECCN 1485A;

d. By revising in paragraph (4) the phrase "paragraphs (b) (2) through (5) and (c)" in the entry for ECCN 1501A to read "paragraphs (b)(1), (b)(2), (b)(4), (b)(5), and (c)";

e. By removing in paragraph (4) the entries for ECCN 1516A, ECCN 1517A, ECCN 1529A, and ECCN 4529B;

f. By adding in paragraph (4) a new entry for ECCN 1548A immediately following the entry for ECCN 1531A and a new entry for ECCN 1561A immediately following the new entry for ECCN 1548A;

g. By revising in paragraph (4) the entry for ECCN 1564A;

h. By removing in paragraph (4) the entries for ECCN 4564B, ECCN 4587B, and ECCN 1715A;

i. By adding in paragraph (4) a new entry for ECCN 1733A immediately following the entry for ECCN 1595A; and

j. By adding in paragraph (4) a new entry for ECCN 1763A immediately following the entry for ECCN 1746A and immediately preceding paragraph (5), as follows:

Supplement No. 4—Additional Specifications for Certain Technical Data Requiring a Validated License to All Destinations Except Canada

* * * * *

(4) Technical data and software for the development and production of commodities that are listed below in numerical order by their respective Export Control Commodity Number. The technical data and software for these commodities are controlled for nuclear weapons delivery reasons (see § 776.18 of this subchapter).

* * * * *

ECCN 4133B: Valves used in propulsion systems and related components as follows: Servo valves designed for flow rates of 24 liters per minute or greater at a pressure of 250 bars, and having flow contact surfaces made of 90 percent or more tantalum, titanium, or zirconium, either separately or combined, and when designed to operate in vibrating environments of more than 12g rms between 20 Hz and 2000 Hz, except when such surfaces are made of materials containing more than 97 percent and less than 99.7 percent titanium.

ECCN 4302B: Pyrolitically derived materials formed on a mould, mandrel, or other substrate from precursor gases that decompose in the 1,573 K (1,300 °C) to 3,173 K (2,900 °C) temperature range at pressures of 133.3 Pa to 19.995 kPa and specially designed nozzles for producing these pyrolitically derived materials.

ECCN 1357A: * * *

ECCN 1361A: Wind tunnels not excepted from control by paragraph (a), in the "List of Wind Tunnels Controlled by ECCN 1361A".

ECCN 1362A: Vibration test equipment had high intensity acoustic test equipment described in paragraphs (a) and (b), respectively, in the List of Vibration Test Equipment Controlled by ECCN 1362A.

ECCN 1385A: * * *

ECCN 1460A: Small fuel efficient gas turbine zero engines described in paragraph (c) and specially designed components for these engines described in paragraph (d) of the "List of Nonmilitary Equipment controlled by ECCN 1564A". Small fuel efficient gas turbine aero engines are those engines, uncertified or certified, with 2,000 pounds thrust or less (un-installed) and having a thrust specific fuel consumption (CSFC) for maximum power at sea level static, standard day equal to or less than 0.45 lb./lb./hr.). (See also paragraphs (6)(i), (6)(iii), and (6)(iv) in this Supplement No. 4 to part 779, which describe additional technical data for aircraft and helicopters that are controlled for nuclear weapons delivery reasons.)

ECCN 1485A: Commodities described in paragraphs (b) and (c) and (f) through (j), in the "List of Equipment Controlled by ECCN 1485A".

* * * * *

ECCN 1531A: * * *

ECCN 1548A: Photosensitive components, including linear and focal plane arrays, and dice and wafers therefor that have any of the characteristics describe in paragraph (d) of the "List of Photosensitive Components Controlled by ECCN 1548A".

ECCN 1561A: Materials specially designed for use as absorbers of electromagnetic waves, as described under the "List of Materials Controlled by ECCN 1561A".

ECCN 1564A: Analog-to-digital converters having all of the following characteristics:

(a) The characteristics described in paragraph (a)(1) or (a)(2) under the "List of Equipment Controlled by ECCN 1564A"; *and*

(b) Both of the following characteristics:

(1) A maximum conversion rate to rated accuracy of more than 50,000 complete conversions per second, *i.e.,* a conversion time to maximum resolution of less than 20 microseconds; *and*

(2) An accuracy of better than ±0.025% of full scale over the specified operating temperature range.

* * * * *

ECCN 1595A: * * *

ECCN 1733A: Ceramic-ceramic "composite" materials described in paragraph (c) of the "List of Products controlled by ECCN 1733A".

ECCN 1746A: * * *

ECCN 1763A: Fibers prepregs and fiber preforms described in paragraph (c) and "composite" structures, laminates, and manufacturers thereof described in paragraph (d) of the "List of Materials Controlled by ECCN 1763A".

* * * * *

PART 799—[AMENDED]

Supplement No. 1 to § 799.1 [Amended]

5. In Supplement No. 1 to § 799.1 (the Commodity Control List), the entries listed below are amended by revising the parenthetical "(see § 799.4(d)(2))" to read "(see § 799.4(d)(18) of this subchapter)" in the *Technical Data* paragraph under the Controls for ECCN heading for each entry:

A. In Commodity Group 0 (Metal-Working Machinery): ECCN 2018A;

B. In Commodity Group 1 (Chemical and Petroleum Equipment): ECCN 2118A;

C. In Commodity Group 3 (General Industrial Equipment): ECCNs 4302B and 1385A;

D. In Commodity Group 5 (Electronics and Precision Instruments): ECCNs 1531A, 1568A, 4568B, and 1595A; and

E. In Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials): ECCN 1746A.

Supplement No. 1 to § 799.1 [Amended]

6. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 1 (Chemical and Petroleum Equipment), ECCN 4118B is amended under the Controls for ECCN heading by revising the *Technical Data* paragraph, as follows:

4118B Batch mixers specially designed or modified for mixing solid propellants with a working capacity of 30 U.S. gallons (114 liters) or more, according to the manufacturer's technical specifications, or a total (volumetric) capacity of 45 U.S. gallons (170 liters) or more, and specially designed components therefor.

Controls for ECCN 4118B

* * * * *

Technical Data: Exports of certain related technical data require a validated license to all destinations except Canada (see § 779.4(d)(18) of this subchapter).

* * * * *

Supplement No. 1 to § 799.1 [Amended]

7. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 1 (Chemical and Petroleum Equipment), a new ECCN 4131B is added immediately following ECCN 3131A, as follows:

4131B Pumps (except vacuum pumps) having the characteristics described in paragraph (a) of the list below, and specially designed parts and accessories therefor.

Controls for ECCN 4131B

Unit: Report pumps in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups QSTVWYZ.

GLV $ Value Limit: $1,000 for Country Groups T & V, except $0 for the People's Republic of China; $0 for all other destinations.

Processing Code: TE.

Reason for Control: Foreign policy. Foreign policy controls apply to pumps and related components described in paragraphs (a) and (b), respectively, in the List of this ECCN, for nuclear weapons delivery systems described in § 776.18(a) of this subchapter.

Special Licenses Available: None.

Technical Data: Exports of certain related technical data require a validated license to all destinations except Canada (see § 779.4(d)(18) of this subchapter).

List of Pumps Controlled by ECCN 4131B

Pumps, except vacuum pumps, having any of the following characteristics:

(a) Pumps, designed to operate in vibrating environments of more than 12g rms between 20 Hz and 2000 Hz, having all flow contact surfaces made of 90 percent or more tantalum, titanium, or zirconium, either separately or combined, except when such surfaces are made of materials containing more than 97 percent and less than 99.7 percent titanium; and

(b) Specially designed parts and accessories for pumps described in paragraph (a) of this ECCN.

Supplement No. 1 to § 799.1 [Amended]

8. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 1 (Chemical and Petroleum Equipment), a new ECCN 4133B is added immediately following ECCN 4131B and immediately preceding ECCN 1145A, as follows:

4133B Servo valves having the characteristics described in paragraph (a) of the list below, and specially designed parts and accessories therefor.

Controls for ECCN 4133B

Unit: Report valves in "number"; parts and accessories in "$ value."

Validated License Required: Country Groups QSTVWYZ.

GLV $ Value Limit: $1,000 for Country Groups T & V, except $0 for the People's Republic of China; $0 for all other destinations.

Processing Code: TE.

Reason for Control: Foreign policy. Foreign policy controls apply to valves and related components described in paragraphs (a) and (b), respectively, in the List of this ECCN, for nuclear weapons delivery systems described in § 776.18(a) of this subchapter.

Special License Available: None.

Technical Data: Exports certain related technical data require a validated license to all destinations except Canada (See § 779.4(d)(18) of this subchapter).

List of Valves Controlled by ECCN 4133B

Servo valves having any of the following characteristics:

(a) Servo valves, designed for flow rates of 24 liters per minute or greater at a pressure of 250 bars and designed to operate in vibrating environments of more than 12g rms between 20 Hz and 2000 Hz, having flow contact surfaces made of 90 percent or more tantalum, titanium or zirconium, either separately or combined, except when such surfaces are made of materials containing more than 97 percent and less than 99.7 percent titanium.

(b) Specially designed parts and accessories for servo valves described in paragraph (a) of this ECCN.

Supplement No. 1 to § 799.1 [Amended]

9. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 3 (General Industrial Equipment), ECCN 1361A is amended under the Controls for ECCN heading by revising the *Commodities Not Eligible for General License GCT* paragraph, the *Reason for Control* paragraph, and the *Technical Data* paragraph, as follows:

1361A Test facilities and equipment for the design or development of aircraft or gas turbine aero-engines; and specially designed components, and accessories therefor.

* * * * *

Controls for ECCN 1361A

* * * * *

GLV $ Value Limit: * * *

Commodities Not Eligible for General License GCT: Wind tunnels not excepted from control by paragraph (a), electromagnetic interference and electromagnetic pulse (EMI/EMP) simulators described in paragraph (f), and specially designed test facilities and equipment described in paragraph (g) in the List of this ECCN.

Processing Code: * * *

Reason for Control: National security; foreign policy. Foreign policy controls apply to wind tunnels not excepted from control by paragraph (a), in the List of this ECCN 1361A, for nuclear weapons delivery systems described in § 776.18(a) of this subchapter.

Special Licenses Available: * * *

Technical Data: Exports of certain related technical data require a validated license to all destinations except Canada (see § 799.4(d)(18) of this subchapter).

* * * * *

Supplement No. 1 to § 799.1 [Amended]

10. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 3 (General Industrial Equipment), ECCN 1362A is amended by revising the *Commodities Not Eligible for General License GCT* paragraph, the *Reason for Control* paragraph, and the *Technical Data* paragraph under the Controls for ECCN heading and by removing the reference "1531A, " where it appears in paragraphs (a)(5), (b)(2), and (c)(2) in the List of the ECCN, as follows:

1362A Vibration test equipment.

Controls for ECCN 1362A

* * * * *

GLV $ Value: * * *

Commodities Not Eligible for General License GCT: Vibration test equipment and high intensity acoustic test equipment described in paragraphs (a) and (b), respectively, in the List of this ECCN.

Processing Code: * * *

Reason for Control: National security; nuclear non-proliferation; foreign policy. Foreign policy controls apply to vibration test equipment and high intensity acoustic test equipment described in paragraphs (a) and (b), respectively, in the List of this ECCN, for nuclear weapons delivery systems described in § 776.18(a) of this subchapter.

Special Licenses Available: * * *

Technical Data: Exports of certain related technical data require a validated license to all destinations except Canada (see § 779.4(d)(18) of this subchapter.

* * * * *

Supplement No. 1 to § 799.1 [Amended]

11. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 4 (Transportation Equipment), ECCN 1485A is amended by revising the heading of the ECCN and by revising the *Commodities Not Eligible for General License GCT* paragraph, the *Reason for Control* paragraph, and the *Technical Data* paragraph, under the Controls for ECCN heading, as follows:

1485A Inertial navigation systems, inertial equipment, gyroscopes (gyros) and accelerometers, as follows, and specially designed components therefor.

* * * * *

Controls for ECCN 1485A

* * * * *

GLV $ Value Limit: * * *

Commodities Not Eligible for General License GCT: Commodities described in paragraphs (b) and (c), and (f) through (j), in the List of this ECCN.

Processing Code: * * *

Reason for Control: National security; foreign policy. Foreign policy controls apply to the equipment described in paragraphs (b) and (c), and (f) through (j), in the List of this ECCN, for nuclear weapons delivery systems described in § 776.18(a) of this subchapter.

Special Licenses Available: * * *

Technical Data: Exports of related technical data require a validated license to all destinations except Canada (see § 779.4 (d)(5) and (d)(18) of this subchapter). The Department of State, Office of Defense Trade Controls, has jurisdiction over certain inertial system technical data (see Interpretation 21 of Supplement No. 1 to § 799.2).

* * * * *

Supplement No. 1 to § 799.1 [Amended]

12. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1501A is amended under the Controls for ECCN heading by revising the *Commodities Not Eligible for General License GCT* paragraph, the *Reason for Control* paragraph, and the *Technical Data* paragraph, as follows:

1501A Navigation, direction finding, radar and airborne communication equipment.

* * * * *

Controls for ECCN 1501A

* * * * *

GLV $ Value Limit: * * *

Commodities Not Eligible for General License GCT: Navigation and direction finding equipment described in paragraphs (b)(1), (b)(2), (b)(4), and (b)(5) and radar equipment described in paragraph (c) in the List of this ECCN.

Processing Code: * * *

Reason for Control: National security; foreign policy. Foreign policy controls apply to: 1. Commodities described in paragraphs (a), (b)(1), and (c)(1), in the List of this ECCN, for Libya; 2.

Commodities described in paragraph (b)(1), in the List of this ECCN, for nuclear weapons delivery systems described in § 776.18(a) of this subchapter; and 3. Commodities described in paragraphs (b)(2), (b)(4), (b)(5), and (c), in the List of this ECCN, for launch and ground support equipment, including precision tracking systems, for nuclear weapons delivery systems described in § 776.18(a) of this subchapter.

Special Licenses Available: * * *

Technical Data: Exports of related technical data require a validated license to all destinations except Canada (see § 779.4(d)(3), (d)(5), and (d)(18) of this subchapter).

* * * * *

Supplement No. 1 to § 799.1 [Amended]

13. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1516A is amended under the Controls for ECCN heading by removing the *Commodities Not Eligible for General License GCT* paragraph; by revising the *Reason for Control* paragraph; and by removing the *Technical Data* paragraph, as follows:

1516A Receivers, and specially designed components and accessories therefor.

* * * * *

Controls for ECCN 1516A

* * * * *

Reason for Control: National security; foreign policy (crime control). See the *Special Foreign Policy Controls* paragraph below for licensing requirements on crime control and detection instruments and equipment.

* * * * *

Supplement No. 1 to § 799.1 [Amended]

14. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1517A is amended under the Controls for ECCN heading:

a. By removing the *Commodities Not Eligible for General License GCT* paragraph;

b. By revising the *Reason for Control* paragraph;

c. By revising the *Special Licenses Available* paragraph; and

d. By removing the *Technical Data* paragraph, as follows:

1517A Radio transmitters, except radio relay communications equipment (for which see ECCN 1520A), and specially designed components therefor.

Controls for ECCN 1517A

* * * * *

Reason for Control: National security.

Special Licenses Available: See part 773 of this subchapter.

* * * * *

Supplement No. 1 to § 799.1 [Amended]

15. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 4518B is amended under the Controls for ECCN heading by revising the *Technical Data* paragraph, as follows:

4518B Telemetering and telecontrol equipment suitable for use with aircraft (piloted or pilotless) or space vehicles, and test equipment specially designed for such equipment, except equipment specially designed to be used for remote control of toys such as model planes and boats and having electric field strength of not more than 200 microvolts per meter at a distance of 500 meters; and specially designed parts and accessories therefor. (Specify by name and model number.)

Controls for ECCN 4518B

* * * * *

Technical Data: Exports of related technical data require a validated license to all destinations except Canada (see § 779.4 (d)(3), (d)(5), and (d)(18) of this subchapter).

Supplement No. 1 to § 799.1 [Amended]

16. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1519A is amended under the Controls for ECCN heading by revising the *Special Licenses Available* paragraph and by removing the *Technical Data* paragraph, as follows:

1519A "Telecommunication transmission equipment", measuring and test equipment, as follows, and specially designed components and accessories therefor.

* * * * *

Controls for ECCN 1519A

* * * * *

Special Licenses Available: See part 773 of this subchapter.

* * * * *

Supplement No. 1 to § 799.1 [Amended]

17. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1529A is amended under the Controls for ECCN heading:

a. By removing the *Commodities Not Eligible for General License GCT* paragraph;

b. By revising the *Reason for Control* and *Special Licenses Available* paragraphs; and

c. By removing the *Technical Data* paragraph, as follows:

1529A Electronic equipment for testing, measuring or for microprocessor/ microcomputer development, as follows.

* * * * *

Controls for ECCN 1529A

* * * * *

Reason for Control: National security; nuclear nonproliferation.

Special Licenses Available: See part 773 of this subchapter.

* * * * *

Supplement No. 1 to § 799.1 [Amended]

18. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 4529B is removed.

Supplement No. 1 to § 799.1 [Amended]

19. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1533A is amended:

a. By revising the heading of the ECCN;

b. By removing the *Commodities Not Eligible for General License GCT* paragraph under the Controls for ECCN heading; and

c. By revising the *Reason for Control* paragraph under the Controls for ECCN heading, as follows:

1533A "Signal analyzers" (including spectrum analyzers) and network analyzers, as follows, and specially designed components and accessories therefor.

* * * * *

Controls for ECCN 1533A

* * * * *

Reason for Control: National security.

* * * * *

Supplement No. 1 to § 799.1 [Amended]

20. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1548A is amended under the Controls for ECCN heading:

a. By adding a *Commodities Not Eligible for General License GCT* paragraph immediately following the *GLV $ Value Limit* paragraph;

b. By revising the *Reason for Control* and *Special Licenses Available* paragraphs; and

c. By adding a *Technical Data* paragraph immediately following the *Special Licenses Available* paragraph, as follows:

1548A Photosensitive components, including linear and focal plane arrays, and dice and wafers therefor.

Controls for ECCN 1548A

* * * * *

GLV $ Value Limit * * *

Commodities Not Eligible for General License GCT: Commodities controlled by this entry that have the characteristics described in paragraph (d) in the List of this ECCN.

Processing Code: * * *

Reason for Control: National Security; foreign policy. Foreign policy controls apply to commodities described in paragraph (d), in the List of this ECCN, for nuclear weapons delivery systems described in § 776.18(a) of this subchapter.

Special Licenses Available: None available for commodities subject to foreign policy controls for nuclear weapons delivery purposes (§ 776.18(c) of this subchapter). See part 773 of this subchapter for other commodities described in ECCN 1548A.

Technical Data: Exports of certain related technical data require a validated license to all destinations except Canada (see § 779.4(d)(18) of this subchapter).

* * * * *

Supplement No. 1 to § 799.1 [Amended]

20. In Supplement No. 1 to § 779.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1561A is amended under the Controls for ECCN heading:

a. By adding a *Commodities Not Eligible for General License GCT* paragraph immediately following the *GLV $ Value Limit* paragraph;

b. By revising the *Reason for Control* and the *Special Licenses Available* paragraphs; and

c. By adding a *Technical Data* paragraph immediately following the *Special Licenses Available* paragraph, as follows:

1561A Materials specially designed for use as absorbers of electromagnetic waves.

Controls for ECCN 1561A

* * * * *

GLV $ Value Limit: * * *

Commodities Not Eligible for General License GCT: Entire entry.

Processing Code: * * *

Reason for Control: National security; foreign policy. Foreign policy controls apply to materials described in the List of this ECCN for nuclear weapons delivery systems described in § 776.18(a) of this subchapter.

Special Licenses Available: None available for commodities under foreign policy controls for nuclear weapons delivery purposes (§ 776.18(c) of this subchapter). See part 773 of this subchapter for other commodities described in ECCN 1561A.

Technical Data: Exports of certain related technical data require a validated license to all destinations except Canada (see § 779.4(d)(18) of this subchapter).

* * * * *

Supplement No. 1 to § 799.1 [Amended]

21. In Supplement No. 1 to § 779.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1564A is amended:

a. By adding a *Commodities Not Eligible for General License GCT* paragraph immediately following the *GLV $ Value Limit* paragraph under the Controls for ECCN heading;

b. By revising the *Reason for Control* paragraph and the *Technical Data* paragraph under the Controls for ECCN heading; and

c. By adding a parenthetical phrase immediately following the heading of (Advisory) Note 4, as follows:

1564A Integrated circuits, including packages therefor, "assemblies", "modules", and "substrates".

Controls for ECCN 1564A

* * * * *

GLV $ Value Limit: * * *

Commodities Not Eligible for General License GCT: Analog-to-digital converters having:

(a) The characteristics described in paragraph (a)(1) or (a)(2) in the List of this ECCN 1564A; *and*

(b) Both of the following characteristics:

(1) A maximum conversion rate to rated accuracy of more than 50,000 complete conversions per second, *i.e.*, a conversion time to maximum resolution of less than 20 microseconds; *and*

(2) An accuracy of better than ±0.025% of full scale over the specified operating temperature range.

Processing Code: * * *

Reason for Control: National security; foreign policy. Foreign policy controls apply, for nuclear weapons delivery purposes, to analog-to-digital converters having:

(a) The characteristics described in paragraph (a)(1) or (a)(2) in the List of this ECCN 1564A; *and*

(b) Both of the following characteristics:

(1) A maximum conversion rate to rated accuracy of more than 50,000 complete conversions per second, *i.e.*, a conversion time to maximum resolution of less than 20 microseconds; *and*

(2) An accuracy of better than ±0.025% of full scale over the specified operating temperature range.

Special Licenses Available: * * *

Technical Data: Exports of certain related technical data require a validated license to all destinations except Canada (see § 779.4(d)(18) of this subchapter).

List of Equipment Controlled by ECCN 1564A

* * * * *

(Advisory) Note 4: (NOT ELIGIBLE FOR GENERAL LICENSE GFW: analog-to-digital converters described in the *Reason for Control* paragraph of this ECCN 1564A as subject to foreign policy controls for nuclear weapons delivery proposes.) * * *

Supplement No. 1 to § 799.1 [Amended]

22. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCNs 4564B and 4587B are removed.

Supplement No. 1 to § 799.1 [Amended]

23. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials), ECCN 1715A is amended:

a. By adding a Note immediately following the heading of the entry;

b. By removing the *Commodities Not Eligible for General License GCT* paragraph under the Controls for ECCN heading;

c. By revising the *Reason for Control* and the *Special Licenses Available* paragraphs; and

d. By removing the *Technical Data* paragraph, as follows:

1715A Boron, as described in this entry.

Note: High energy density fuels such as Boron Slurry are controlled under the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120–130) administered by the Office of Defense Trade Controls, U.S. Department of State.

Controls for ECCN 1715A

* * * * *

Reason for Control: National security; nuclear nonproliferation. Nuclear nonproliferation controls do not apply to commodities described in paragraphs (b)(2) and (b)(3) in the List of this ECCN.

Special Licenses Available: None available for commodities described in paragraphs (a) and (b)(1) in the List of this ECCN. See part 773 of this subchapter for special licenses available for other commodities described in this ECCN 1715A.

* * * * *

Supplement No. 1 to § 799.1 [Amended]

24. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials), ECCN 1733A is amended under the Controls for ECCN heading:

a. By adding a *Commodities Not Eligible for General License GCT* paragraph immediately following the *GLV $ Value Limit* paragraph;

b. By revising the *Reason for Control* and *Special Licenses Available* paragraphs; and

c. By adding a *Technical Data* paragraph immediately following the *Special Licenses Available* paragraph, as follows:

1733A Base materials, non-"composite" ceramic materials, ceramic-ceramic "composite" materials and precursor materials, as follows, for the manufacture of high temperature fine technical ceramic products.

Controls for ECCN 1733A

* * * * *

GLV $ Value Limit: * * *

Commodities Not Eligible for General License GCT: Ceramic-ceramic "composite" materials described in paragraph (c) in the List of this ECCN.

Processing Code: * * *

Reason for Control: National security; foreign policy. Foreign policy controls apply to ceramic-ceramic "composite" materials described in paragraph (c), in the List of this ECCN, for nuclear weapons delivery systems described in § 776.18(a) of this subchapter.

Special Licenses Available: None available for commodities under foreign policy controls for nuclear weapons delivery purposes (§ 776.18(c) of this subchapter). See part 773 of this subchapter for other commodities described in ECCN 1733.

Technical Data: Exports of certain related technical data require a validated license to all destinations except Canada (see § 779.4(d)(18) of this subchapter).

* * * * *

Supplement No. 1 to § 799.1 [Amended]

25. In Supplement No. 1 § 799.1 (the Commodity Control List), Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials), ECCN 1763A is amended by revising the ECCN heading and, under the Controls for ECCN heading, by revising the *Reason for Control* paragraph and by adding a new *Technical Data* paragraph immediately following the *Special Licenses Available* paragraph, as follows:

1763A "Fibrous and filamentary materials" that may be used in organic "matrix", metallic "matrix" or carbon "matrix" "composite" structures or laminates, and such "composite" structures and laminates and "specially designed software" therefor.

* * * * *

Controls for ECCN 1763A

* * * * *

Reason for Control: National security; nuclear non-proliferation; foreign policy. Foreign policy controls apply to materials described in paragraphs (c) and (d), in the List of this ECCN, for nuclear weapons delivery systems described in § 776.18(a) of this subchapter.

Special Licenses Available: * * *

Technical Data: Exports of certain related technical data require a validated license to all destinations except Canada (see § 779.4(d)(18) of this subchapter).

* * * * *

Dated: June 14, 1991.

James M. LeMunyon,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 91–14696 Filed 6–26–91; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 655

RIN 1205–AA90

Wage and Hour Division

29 CFR Part 506

RIN 1215–AA

Attestations by Employers Using Alien Crewmembers for Longshore Activities in U.S. Ports; Correction

AGENCY: Employment and Training Administration, Labor; and Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Interim final rule; request for comments; correction.

SUMMARY: The Department of Labor is correction an interim final rule published at 56 FR 24648 (May 30, 1991). In that document, the OMB control number was inadvertently omitted from the common rule; and the appendix to subpart F of the common rule was placed incorrectly and omitted from the various tables of sections headings.

EFFECTIVE DATE: May 28, 1991.

FOR FURTHER INFORMATION CONTACT: On 20 CFR part 655, subpart F, and 29 CFR part 506, subpart F, contact David O. Williams, Chair, Immigration Task Force, Employment and Training Administration, Department of Labor, room N–4470, 200 Constitution Avenue NW., Washington, DC 20210; Telephone: 202–535–0174 (this is not a toll-free number).

On 20 CFR part 655, subpart G, and 29 CFR part 506, subpart G, contact Mr. Solomon Sugarman, Chief, Farm Labor Programs, Wage and Hour Division, Employment Standards Administration, Department of Labor, room S–3502, 200 Constitution Avenue NW., Washington, DC 20210; Telephone: 202–523–7605 (this is not a toll-free number).

Signed at Washington, DC, this 21st day of June, 1991.

Lynn Martin,

Secretary of Labor.

The following corrections are made in FR Doc 91–12718, published in the **Federal Register** at 56 FR 24648 on May 30, 1991:

Appendix 1 to Subpart F [Corrected]

1. "Appendix 1—U.S. Seaports", which appears beginning in the third column on page 24667 and continues through the end of page 24668, is correctly designated as "Appendix 1 to Subpart F—U.S. Seaports" and should have appeared in the first column on page 24660 at the end of the common rule text for subpart F.

2. An entry for "Appendix 1 to Subpart F—U.S. Seaports" is added to the following tables of section headings:

a. On page 24654, in the first column, at the end of the entry for subpart F in the table of section headings for the common rule text;

b. On page 24667, in the first column, at the end of the entry for subpart F in the table of section headings for 20 CFR part 655; and

c. On page 24667, in the second column, at the end of the entry for subpart F in the table of section headings for 29 CFR part 506.

3. The phrase "[Approved by the Office of Management and Budget under Control No. 1205–0309.]" is added to the common rule text at the following locations.

a. On page 24659, in the second column, it is displayed at the end of § ____.510 of the common rule text;

b. On page 24660, in the first column, it is displayed at the end of § ____.520 of the common rule text; and

c. On page 24660, in the first column, it is displayed at the end of § ____.550 of the common rule text.

[FR Doc. 91-15328 Filed 6-26-91; 8:45 am]

BILLING CODE 4510-10-M and 4510-27-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8345]

RIN 1545-AP49

Arbitrage Restrictions on Tax Exempt Bonds; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Corrections to temporary regulations.

SUMMARY: This document contains corrections to the temporary regulations (T.D. 8345), which were published Thursday, April 25, 1991 (56 FR 19023). The regulations relate to the arbitrage rebate requirements applicable to tax exempt bonds issued by States and local governments under section 103 of the Internal Revenue Code.

EFFECTIVE DATE: April 25, 1991.

FOR FURTHER INFORMATION CONTACT: William P. Cejudo (202) 566-3283 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations amend the Income Tax Regulations (26 CFR part 1) promulgated with respect to sections 103, 148, and 149 of the Internal Revenue Code to simplify, clarify, and expand certain provisions of the temporary and proposed regulations §§ 1.148-0T through 1.148-9T and § 1.149(d)-1T published in the **Federal Register** for May 15, 1989 (54 FR 20787) (1989).

Need for Correction

As published, the temporary regulations contain errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the temporary regulations (T.D. 8345), which was the subject of FR Doc. 91-9559, is corrected as follows:

§ 1.148-0T [Corrected]

Par. 1. On page 19028, second column, in § 1.148-0T, paragraph (b)(2)(ii)(B)(*4*), line 5, the language "1991. See § 1.148-1T(d)(3)" is corrected to read "1991. See § 1.149(d)-1T(d)(3)".

§ 1.149(d)-1T [Corrected]

Par. 2. On page 19037, third column, in § 1.149(d)-1T, paragraph (d)(3)(iii), line seven, the language "section 149(d)(5)" is corrected to read "section 149(d)(5))".

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 91-15154 Filed 6-26-91; 8:45 am]

BILLING CODE 4830-01-M

26 CFR Parts 1 and 602

[T.D. 8352]

RIN 1545-AK26

Final Regulations Under Sections 382 and 383 of the Internal Revenue Code of 1986; Pre-change Attributes

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary and final regulations.

SUMMARY: This document contains final regulations relating to the use of certain corporate tax attributes under sections 382 and 383 of the Internal Revenue Code of 1986 ("the Code") that are attributable to the period preceding an ownership change of the corporation. Section 382 was amended by the Tax Reform Act of 1986 (the "1986 Act"), the Revenue Act of 1987 (the "1987 Act"), the Technical and Miscellaneous Revenue Act of 1988 (the "1988 Act") and the Revenue Reconciliation Act of 1989 (the "1989 Act"). Section 383 was amended by the 1986 Act and the 1988 Act. The final regulations under section 383 provide guidance relating to the manner and method of absorbing the section 382 limitation with respect to certain capital losses and excess credits after there has been an ownership change of a corporation within the meaning of section 382.

DATES: The regulations are effective as of June 26, 1991, and generally are applicable to any ownership change within the meaning of section 382 occurring after December 31, 1986.

FOR FURTHER INFORMATION CONTACT: Lori J. Jones of the Office of Assistant Chief Counsel (Corporate), Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224 (attention: CC:CORP:3) or telephone (202) 566-3422 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in this final regulation have been reviewed and approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3504(h)) under control number 1545-0123. The estimated annual burden per respondent/recordkeeper varies from 6 minutes to 30 minutes, depending on individual circumstances, with an estimated average of 18 minutes.

These estimates are an approximation of the average time expected to be necessary for a collection of information. They are based on such information as is available to the Internal Revenue Service. Individual respondents/recordkeepers may require greater or less time, depending on their particular circumstances.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Internal Revenue Service, attn: IRS Reports Clearance Officer TR:FP, Washington, DC 20224.

Background

This document contains final regulations to be added to part 1 of title 26 of the Code of Federal Regulations ("CFR") under sections 382 and 383 of the Code. On September 20, 1989, the **Federal Register** published a notice of proposed rulemaking (54 FR 38695) proposing amendments to the Income Tax Regulations (26 CFR part 1) under sections 382 and 383 by cross-reference to temporary regulations published the same day in the **Federal Register** (T.D. 8264; 54 FR 38664). That document also amended temporary regulations under section 382 which were published in the **Federal Register** on August 11, 1987 (T.D. 8149, 52 FR 29668). The temporary regulations published on August 11, 1987, also were proposed to be adopted as final regulations (52 FR 29704).

The only written comments received by the Internal Revenue Service with respect to T.D. 8264 regarded the effect of the amendments to the section 382 temporary regulations on regulated investment companies under section 851 of the Code. These comments, which relate to the method of determining whether a regulated investment company has an ownership change, and not to the manner in which capital losses and excess credits are limited as the result of an ownership change, will be considered in a separate regulations project. Because no other comments were received and no public hearing was requested with respect to the temporary regulations under section 383, the final regulations adopt the temporary regulations under section 383 without any substantive changes other than a clarification of the ordering rule

for absorption of general business credits and carryovers and, as discussed below, the addition of a rule coordinating sections 283(h)(6) (relating to the treatment of certain built-in items) and 383. The final regulations under section 383 provide guidance relating to the manner and method of absorbing the section 382 limitation with respect to certain capital losses and excess credits after there has been an ownership change of a corporation within the meaning of section 382.

The document also includes final regulations under section 382 (new § 1.382–2) which contain the definitions of pre-change loss and loss corporation. The definition of pre-change loss was initially included in the temporary and proposed regulations published on August 11, 1987 and was amended by T.D. 8264 published on September 20, 1989. Only one technical comment with respect to the definition of pre-change loss was received; however, after careful consideration, it was determined that the definition in the temporary and proposed regulations is consistent with section 382 and the use of the term in those regulations. No public hearing was requested with respect to the above definition of pre-change loss. Accordingly, the final regulations adopt this definition, as amended by T.D. 8264, without any substantive changes from the temporary regulations.

The definition of a loss corporation was also initially included in the temporary and proposed regulations published on August 11, 1987. Written comments were received in response to the definition of a loss corporation in the 1987 regulations, relating principally to the clarification of the separate accounting of losses and credits of an acquiring corporation and those of the distributor or transferor loss corporation in a section 381 transaction. The definition was amended by T.D. 8264 and additionally proposed to be further amended by a notice of proposed rulemaking published in the Federal Register on January 29, 1991 (56 FR 4183). The proposed amendments published on January 29, 1991, also relate to the appropriate scope of the separate accounting rules and are still under consideration. Therefore, although the final regulations adopt the definition of a loss corporation, as published on August 11, 1987, and amended by T.D. 8264, without substantive change, the final regulations may be amended to further reflect the January 29, 1991 proposed amendments. Also, the amendment to § 1.382–2T(a)(2)(ii) made by T.D. 8264, relating to the filing of an information statement, is not adopted as a final regulation in this document, but will be addressed in connection with the temporary regulations published under section 382 on August 11, 1987.

The final regulations under section 383 also adopt a change to § 1.383–1T(g) relating to the coordination of the rules of section 383 with rules and principles of section 382. These regulations provide that to the extent section 382(h)(6) (relating to the treatment of certain built-in items) applies to credits, the principles of section 383 apply to such credits.

Regulations under section 382(h)(6) will address the application of that section to credits. Also, it is expected that separate proposed regulations addressing the allocation of income, loss and credits in the loss corporation's taxable year that includes the change date between pre- and post-change periods will provide additional rules for the application of sections 382 and 383 with respect to the change year.

Special Analyses

It has been determined that these rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a final Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code (as then in effect), the notice of proposed rulemaking for the regulations was submitted to the Administrator of the Small Business Administration for comments on their impact on small business.

Drafting Information

The principal author of these regulations is Lori J. Jones of the Office of Assistant Chief Counsel, Corporate, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, on matters of both substance and style.

List of Subjects

26 CFR 1.56–0T through 1.58–9T

Income taxes, Reporting and recordkeeping requirements.

26 CFR 1.301–1 through 1.383–3

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, parts 1 and 602 of title 26 of the Code of Federal Regulations are amended as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. The authority citation for part 1 is amended in part by adding the following citation:

Authority: 26 U.S.C. 7805 * * * § 1.382–2 also issued under 26 U.S.C. 382(m) and 26 U.S.C. 383, and § 1.383–1 and § 1.383–2 also issued under 26 U.S.C. 383.

§ 1.56(g)–1 [Amended]

Par. 2. Section 1.56(g)–1 is amended by removing "§ 1.382–2T(f)(1)" in paragraphs (k)(2) and in (k)(4) in *Example* paragraph (iv) and adding in lieu thereof "§ 1.382–2(a)(1)".

Par. 3. New § 1.382–0 is added to read as follows:

§ 1.382–0 Effective date.

(a) Temporary regulations § 1.382–1T and § 1.382–2T and the final regulations under 382 (other than the regulations described in paragraph (b) of this section) reflect the amendments made to sections 382 and 383 by the Tax Reform Act of 1986. See § 1.382–2T(m) for effective date rules.

(b) Sections 1.382–1A, 1.382–2A, 1.382–3A, and 1.382–4A do not reflect the amendments made to sections 382 and 383 by the Tax Reform Act of 1986.

Par. 4. Sections 1.382(a)–1, 1.382(b)–1, 1.382(c)–1 and 1.382–2 are amended as follows:

§ 1.382(a) [Amended]

1. Section 1.382(a)–1 is redesignated as § 1.382–1A and the section heading is revised to read, "Purchase of a corporation and change in its trade or business (Pre-Tax Reform Act of 1986)".

§ 1.382(b) [Amended]

2. Section 1.382(b)–1 is redesignated as § 1.382–2A and the section heading is revised to read, "Change of ownership as the result of a reorganization (Pre-Tax Reform Act of 1986)".

§ 1.382(c)–1 [Amended]

3. Section 1.382(c)–1 is redesignated as § 1.382–3A and the section heading is revised to read, "Definition of stock (Pre-Tax Reform Act of 1986)".

§ 1.382–2 [Amended]

4. Section 1.382–2 is redesignated as § 1.382–4A.

Par. 5. An undesignated center heading is added to precede newly designated § 1.382–1A to read as follows:

Regulations Applicable to Taxable Years Prior to Tax Reform Act of 1986

Par. 6. New §§ 1.382–1 is added and reserved and 1.382–2 is added to read as follows:

§ 1.382–1 Limitations on the use of certain tax attributes following an ownership change. [Reserved]

§ 1.382–2 Definition of ownership change under section 382 as amended by the Tax Reform Act of 1986.

(a) *Certain definitions for purposes of sections 382 and 383 and the regulations thereunder.* The following definitions apply for purposes of sections 382 and 383 and the regulations thereunder.

(b) [Reserved]

§ 1.382–1T [Amended]

Par. 7. Section 1.382–1T is amended by removing the entries for paragraphs (a)(2)(iv) and (f)(1) (i), (ii) and (iii).

§ 1.382–2T [Amended]

Par. 8. Section 1.382–2T is amended as follows:

1. By removing the "T" from references to "§ 1.383–1T" wherever it appears in paragraphs (a)(1), (f)(1) (i) and (ii), and (f)(22) (iv) and (v).

2. The fifth sentence of paragraph (a)(1) is amended by removing "paragraphs (f) (1) and (3)" and adding in lieu thereof "§ 1.382–2(a)(1) and paragraph (f)(3)".

3. The last sentence of paragraph (a)(2)(ii) is amended by removing "paragraph (a)(2)(iv) and" and adding in lieu thereof "§ 1.383–1(k) and paragraph".

4. Paragraph (e)(2)(iv) is amended by removing "paragraph (f)(1)(ii)" in *Example 3* and adding in lieu thereof "§ 1.382–2(a)(1)(ii)," and by removing "paragraph (f)(1)(iii)" each place it appears in *Examples 1, 2* and *3* and adding in lieu thereof "§ 1.382–2(a)(1)(iii)".

5. Paragraph (f)(1) is redesignated as § 1.382–2(a)(1) and is amended by—

A. Removing "paragraph (a)(2)(i) of this section" and adding in lieu thereof "§ 1.382–2T(a)(2)(i)" in paragraph (a)(1)(i)(B),

B. Removing "paragraph (f)(1)" and adding in lieu thereof "paragraph (a)(1)" each place it appears, and

C. Removing "paragraph (e)(2)(iv) of this section" and adding in lieu thereof "§ 1.382–2T(e)(2)(iv)" in paragraph (a)(1)(iii).

6. The second sentence of paragraph (f)(18)(ii)(C) is removed.

7. The second sentence of paragraph (f)(18)(iii)(C) is removed.

8. Paragraph (f)(22) is redesignated as § 1.382–2(a)(2).

9. The second sentence of paragraph (h)(4)(ix) is removed.

10. New paragraphs (f)(1) and (f)(22) are added to read as follows:

§ 1.382–2T Definition of ownership change under section 382, as amended by the Tax Reform Act of 1986 (temporary).

* * * * *

(f) * * *

(1) *Loss corporation.* See section 382 and § 1.382–2(a)(1) for the definition of a loss corporation.

* * * * *

(22) *Pre-change loss.* See section 382 and § 1.382–2(a)(2) for the definition of pre-change loss.

* * * * *

Par. 9. Section 1.383–0 is added as follows:

§ 1.383–0 Effective date.

(a) The regulations under section 383 (other than the regulations described in paragraph (b) of this section) reflect the amendments made to sections 382 and 383 by the Tax Reform Act of 1986. See § 1.383–1(j) for effective date rules.

(b) Sections 1.383–1A, 1.383–2A, and 1.383–3A do not reflect the amendments made to sections 382 and 383 by the Tax Reform Act of 1986.

§§ 1.383–1, 1.383–2, 1.383–3 [Amended]

Par. 10. Sections 1.383–1, 1.383–2, and 1.383–3 are amended as follows:

1. Section 1.383–1 is redesignated as § 1.383–1A and the section heading is revised to read, "Special limitations on carryovers of unused investment credits, work incentive program credits, foreign taxes and capital losses (Pre-Tax Reform Act of 1986)".

2. Section 1.383–2 is redesignated as § 1.383–2A and the section heading is revised to read, "Purchase of a corporation and change in its trade or business (Pre-Tax Reform Act of 1986)".

3. Section 1.383–3 is redesignated as § 1.393–3A and the section heading is revised to read, "Change in ownership as the result of a reorganization (Pre-Tax Reform Act of 1986)".

4. Section 1.383–1A, as redesignated, is amended by removing "1.383–2 and 1.383–3" and adding in lieu thereof "1.383–2A and 1.383–3A" in the next to the last sentence and by removing "§ 1.382–2" in the last sentence and adding in lieu thereof "§ 1.382–4A".

§ 1.383–1T [Redesignated as § 1.383–1]

Par. 11. Section 1.383–1T is redesignated as § 1.383–1 and is amended as follows:

1. The section heading is revised by removing "(Temporary)".

2. Paragraph (a) is amended by adding at the end of the table of contents, "(k) Transitional rules regarding information statements".

3. Paragraph (c)(2)(ii) is amended by removing "attributable" and adding in lieu thereof "allocable".

4. Paragraphs (c)(3) (i)(B) and (ii)(B) are amended by removing "attributable" and adding in lieu thereof "allocable".

5. Paragraphs (c)(4) and (d)(2)(iii) are amended by removing "§ 1.382.2T(f)(22)" and adding in lieu thereof "§ 1.382–2(a)(2)".

6. Paragraph (e)(4)(i) is amended by removing in the last sentence, "general business credits arising in the taxable year are considered (under section 39) to offset regular tax liability before general business credit carryovers to the taxable year." and, adding in lieu thereof, "general business credit carryovers to the taxable year are considered (under section 39) to offset regular tax liability before general business credits arising in the taxable year."

7. Paragraph (e)(4)(ii) is amended by adding after "section 38(c)(2)," the words "as applicable, taking into account amendments made by section 11813 of the Revenue Reconciliation Act of 1990,".

8. Paragraph (g) is amended by adding a new sentence after the first sentence and adding a new sentence at the end thereof as set forth below.

§ 1.383–1 Special limitations on certain capital losses and excess credits.

* * * * *

(g) *Coordination with section 382 and the regulations thereunder.* * * * To the extent section 382(h)(6) applies to credits, the principles of this section apply to such credits. * * * For example, in applying § 1.382–2T (f)(18)(ii)(C), (f)(18)(iii)(C) and (h)(4)(ix), any pre-change credits, as defined in paragraph (c)(3) of this section, must be converted to a deduction equivalent by dividing the amount of such credits by the maximum effective rate of tax provided for under section 11 (e.g., 0.34 for taxable years beginning in 1989).

* * * * *

§ 1.382–2T [Amended]

Par. 12. A further amendment is made

to § 1.382–2T as follows. Paragraph (a)(2)(iv) is redesignated as paragraph (k) of newly designated § 1.383–1 and amended by:

A. Revising the heading of newly redesignated paragraph to read, "Transitional rules regarding information statements",

B. Redesignating paragraphs (a)(2)(iv)(A) and (B) as paragraphs (k)(1) and (k)(2), respectively, of § 1.383–1,

C. Removing "paragraph (a)(2)(ii) of this section" in newly redesignated paragraph (k)(1) and adding in lieu thereof, "§ 1.382–2T(a)(2)(ii)",

D. Removing "§ 1.383–1T(c)(2) (i) and (ii)" each place it appears in newly redesignated paragraph (k) and adding in lieu thereof "paragraphs (c)(2) (i) and (ii) of this section",

E. Removing "§ 1.383–1T(c)(3)" each place it appears in newly redesignated paragraph (k) and adding in lieu thereof "paragraph (c)(3) of this section",

F. Removing "paragraphs (a)(2)(ii) (A) and (B) of this section" in newly redesignated paragraph (k) and adding in lieu thereof "§ 1.382–2T (a)(2)(ii) (A) and (B)",

G. Removing "§ 1.383–1T" in newly redesignated paragraph (k)(2) and adding in lieu thereof "this section", and

H. Removing "subdivision (B)" in the last sentence of newly redesignated paragraph (k)(2) and adding in lieu thereof "paragraph (k)(2)".

§ 1.383–2T [Redesignated as § 1.383–2]

Par. 13. Section 1.383–2T is redesignated as § 1.383–2 and the section heading is amended by removing "(Temporary)".

PART 602—OMB CONTROL NUMBERS UNDER PAPERWORK REDUCTION ACT

Par. 14. The authority for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

Par. 15. Section 602.101(c) is amended by inserting in the appropriate place in the table "Section 1.383–1 * * * 1545–0123".

Approved: May 16, 1991.

Commissioner of Internal Revenue.

Kenneth W. Gideon,

Assistant Secretary of the Treasury.

[FR Doc. 91–15026 Filed 6–26–91; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05–91–19]

Special Local Regulations for Marine Events; Fourth of July Fireworks Display; Parker Island, Little Egg Harbor, Beach Haven, NJ

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation of 33 CFR 100.514.

SUMMARY: This notice implements 33 CFR 100.514 for the Fourth of July fireworks display launched from Parker Island, Little Egg Harbor, Beach Haven, New Jersey. The regulations in 33 CFR 100.514 are needed to control vessel traffic within the immediate vicinity of this event. The regulations restrict vessel traffic in the area for the safety of the life and property on the navigable waters during the event.

EFFECTIVE DATE: The regulations in 33 CFR 100.514 are effective from 8:30 p.m. to 11:30 p.m., July 4, 1991. If inclement weather causes the postponement of the event, the regulations are effective from 8:30 p.m. to 11:30 p.m., July 5, 1991.

FOR FURTHER INFORMATION CONTACT: Stephen L. Phillips, Chief, Boating Affairs Branch, Boating Safety Division, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, (804) 398–6204.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this notice are QM1 Kevin R. Connors, project officer, Boating Affairs Branch, Boating Safety Division, Fifth Coast Guard District, and Lieutenant Monica L. Lombardi, project attorney, Fifth Coast Guard District Legal Staff.

Discussion of Regulations

The Red, White and Blue Committee, Ltd., Beach Haven, New Jersey submitted an application on April 2, 1991 to hold a fireworks display launched from Parker Island, Little Egg Harbor, Beach Haven, New Jersey. The regulations in 33 CFR 100.514 are needed to control marine traffic on the waters of Little Egg Harbor. In order to protect life and property, Parker Island will be closed. A circle around the island's center with a radius of 1000 feet will be closed to waterborne traffic during the event. Vessels transiting the area will not be inconvenienced since the deep water channel will remain open.

Dated: June 24, 1991.

P.A. Welling,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 91–15350 Filed 6–26–91; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF EDUCATION

34 CFR Parts 74, 80, 85, 86, 201, 215, 222, 231, 232, 233, 234, 235, 300, 302, 315, 332, 346, 365, 366, 367, 369, 380, 385, 396, 400, 441, 600, 607, 608, 609, 624, 628, 629, 630, 631, 637, 639, 643, 644, 645, 646, 649, 653, 656, 657, 658, 668, 682, 690, 692, 764, 765, 766, 768, 769, 771, 772

Announcement of Effective Dates

AGENCY: Department of Education.

ACTION: Notice of effective dates.

SUMMARY: Section 431(d) of the General Education Provisions Act requires that most Department of Education regulatory documents be published in the **Federal Register** for forty-five (45) calendar days, or longer if Congress takes certain adjournments, before they take effect. Since future congressional adjournments cannot be predicted with certainty when a document is published, the Department cannot announce a specific effective date at the time of publication. This notice announces the effective dates for certain regulatory documents subject to the delayed effective date requirement of section 431(d).

DATES: For effective dates, see Supplementary Information.

FOR FURTHER INFORMATION CONTACT: Kenneth C. Depew, U.S. Department of Education, 400 Maryland Avenue SW., Room 2131 FOB–6, Washington, DC 20202–2241. Telephone: (202) 401–2887. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION: The effective date provision for each of the regulatory documents included in this notice stated that the effective date would be announced in a notice published in the **Federal Register.** Accordingly, this notice announces the following effective dates:

1. 34 CFR part 690, final regulations for the Pell Grant Program, published April 5, 1990 (55 FR 12784).

Dates: Effective date: May 20, 1990.

2. 34 CFR part 222, final regulations for Assistance for Local Educational

Agencies in Areas Affected by Federal Activities and Arrangements for Education of Children Where Local Educational Agencies Cannot Provide Suitable Free Public Education, published April 25, 1990 (55 FR 17576).

Dates: Effective date: June 14, 1990.

3. 34 CFR part 85, final regulations for Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants), published May 25, 1990 (55 FR 21681).

Dates: Effective date: July 24, 1990.

4. 34 CFR parts 300, 315, 332, 365, 366, 367, 369, 380, 385, 396, 400, 607, 608, 609, 624, 628, 629, 630, 631, 637, 639, 643, 644, 645, 646, 649, 656, 657, 658, and 692, final regulations for Intergovernmental Review of Department of Education Programs and Activities, published May 25, 1990 (55 FR 21712).

Dates: Effective date: July 19, 1990.

5. 34 CFR part 201, final regulations for Chapter 1—Migrant Education Program, published May 30, 1990 (55 FR 22016).

Dates: Effective date: July 19, 1990.

6. 34 CFR parts 768, 769, 771, and 772, final regulations for Library Services and Construction Act Discretionary Grant Programs, published July 16, 1990 (55 FR 28990).

Dates: Effective date: September 2, 1990.

7. 34 CFR parts 600 and 668, final regulations for Institutional Eligibility Under the Higher Education Act of 1965, as Amended, and Student Assistance General Provisions, published August 7, 1990 (55 FR 32180).

Dates: Effective date: September 21, 1990.

8. 34 CFR part 346, final regulations for Technology-Related Assistance for Individuals with Disabilities: Demonstration and Innovation Projects of National Significance, published August 13, 1990 (55 FR 33068).

Dates: Effective date: September 27, 1990.

9. 34 CFR part 86, final regulations for Drug-Free Schools and Campuses, published August 16, 1990 (55 FR 33580).

Dates: Effective date: September 30, 1990.

10. 34 CFR part 302, final regulations for chapter 1 State Operated or Supported Programs for Handicapped Children Program, published August 24, 1990 (55 FR 34842).

Dates: Effective date: October 8, 1990.

11. 34 CFR parts 653 and 682, final regulations for the Paul Douglas Teacher Scholarship Program and the Guaranteed Student Loan and PLUS Programs, published August 27, 1990 (55 FR 35002).

Dates: Effective date: October 11, 1990.

12. 34 CFR part 222, final regulations for Assistance for Local Educational Agencies in Areas Affected by Federal Activities and Arrangements for Education of Children Where Local Educational Agencies Cannot Provide Suitable Free Public Education, published December 12, 1990 (55 FR 51238).

Dates: Effective date: January 26, 1991.

13. 34 CFR parts 231, 232, 233, 234, 235, 764, 765, and 766, final regulations for the Drug-Free Schools and Communities Program, published December 19, 1990 (55 FR 52146).

Dates: Effective date: February 2, 1991.

14. 34 CFR parts 74 and 80, final regulations for Administration of Grants to Institutions of Higher Education, Hospitals and Nonprofit Organizations and Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, published January 16, 1991 (56 FR 1698).

Dates: Effective date: March 2, 1991.

15. 34 CFR part 690, final regulations for the Pell Grant Program, published January 16, 1991 (56 FR 1700).

Dates: Effective date: March 2, 1991.

16. 34 CFR part 441, final regulations for the Adult Education for the Homeless Program, published April 2, 1991 (56 FR 13522).

Dates: Effective date: May 17, 1991.

17. 34 CFR part 215, final regulations for the Follow Through Program, published April 12, 1991 (56 FR 14980).

Dates: Effective date: June 12, 1991.

(20 U.S.C. 1232(d))

Dated: June 21, 1991.

Steven Y. Winnick,

Acting General Counsel.

[FR Doc. 91-15240 Filed 6-26-91; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 36

Loan Guaranty: Implementation of Public Law 100-198

AGENCY: Department of Veterans Affairs.

ACTION: Technical amendment.

SUMMARY: VA published a document concerning VA loan charges and fees which appeared in the **Federal Register** on October 4, 1990 (55 FR 40656). The amendment instructions assigned incorrect paragraph designations and created a duplication of paragraphs. This document will correct those problems.

EFFECTIVE DATE: November 5, 1990.

FOR FURTHER INFORMATION CONTACT: Judith A. Caden, Assistant Director for Loan Policy (264), (202) 233-3042.

SUPPLEMENTARY INFORMATION: In 55 FR 40656, October 4, 1990, item 5, § 36.4312, VA announced incorrect instructions to redesignate paragraph (e)(4) to (e)(5) and to add a new paragraph (e)(4). The redesignation of paragraph (e)(4) created two paragraphs (e)(5); a previous amendment in 55 FR 37476, item 23, September 12, 1990, had established a paragraph (e)(5), which has since become obsolete and is removed by this amendment.

The addition of the new paragraph (e)(4) in 55 FR 40656 created repetitive text in paragraphs (e)(4) and (e)(5). This amendment removes paragraph (e)(5).

List of Subjects in 38 CFR Part 36

Condominiums, Handicapped, Housing loan program—housing and community development, Manufactured homes, Veterans.

Approved: June 18, 1991.

B. Michael Berger,

Director, Records Management Service.

For the reasons set out in the preamble, 38 CFR part 36 is amended as set forth below.

PART 36—LOAN GUARANTY

1. The authority citation for part 36 continues to read as follows:

Authority: Sections 36.4300 through 36.4375 issued under 72 Stat. 1114 (38 U.S.C. 210).

§ 36.4312 [Amended]

2. Section 36.4312 is amended by removing paragraph (e)(5), redesignated by item 23 (55 FR 37476, September 12, 1990), and by removing paragraph (e)(5) redesignated by item 5 (55 FR 40656, October 4, 1990).

[FR Doc. 91-15292 Filed 6-26-91; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3961-3]

Approval and Promulgation of State Implementation Plans; Utah; Prevention of Significant Deterioration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is today approving revisions to Utah's State Implementation Plan (SIP) submitted by the Governor on May 2, 1991, which modified the prevention of significant deterioration of air quality (PSD) portion of the SIP, section 8, and the PSD regulations (section R446–1–3 of the Utah Air Conservation Regulations [U.A.C.R.]), to incorporate the nitrogen dioxide (NO_2) increments. The May 2, 1991 submittal also included minor "housekeeping" changes to the Foreward and Definitions (U.A.C.R. R446–1–1), and to the PSD and new source review provisions contained in the Control of Installations (U.A.C.R. R446–1–3). The effect of this action is to make the NO_2 increment revisions to the PSD program, and the "housekeeping" changes, part of the Utah SIP and thus federally enforceable.

EFFECTIVE DATE: This action will become effective on August 26, 1991, unless notice is received by July 29, 1991, that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection between 8 a.m. and 4 p.m., Monday through Friday at the following offices:

Environmental Protection Agency, Region VIII, Air Programs Branch, 999 18th Street, suite 500, Denver, Colorado 80202–2405.

Bureau of Air Quality, Department of Health, 1950 West North Temple, Salt Lake City, Utah 84116.

Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

Mindy Mohr, Environmental Protection Agency, Region VIII, Air Programs Branch, 999 18th Street, suite 500, Denver, Colorado 80202–2405, (303) 294–7539, FTS 330–7539.

SUPPLEMENTARY INFORMATION:

NO_2 Increment Revisions:

On October 17, 1988 (53 FR 40656), EPA promulgated ambient air quality increments for NO_2 under the PSD regulations at 40 CFR 51.166 and 40 CFR 52.21. The effective date promulgated for the NO_2 increments in 40 CFR 51.166 is October 17, 1989 and in 40 CFR 52.21, November 19, 1990.

Guidance dated August 17, 1990, from Gary McCutchen, Chief of the New Source Review Section, to NSR Contacts, Region I–X, entitled "Final Guidance on Incorporating the NO_2 Increments Regulations Into State Implementation Plans (SIP's) and Delegation Agreements (DA's)," describes the minimum PSD program elements regarded as necessary for protection of the NO_2 increments. States must confirm that they intend to comply with, as well as explain how they intend to comply with, as well as explain how they intend to satisfy, each of these program elements. Utah's PSD program was originally approved by EPA on February 12, 1982 (47 FR 6427). Since Utah's PSD program is a SIP-approved program, the minimum program elements include:

1. *Regulatory Language*—revised State PSD rules as required by revisions to 40 CFR 51.166.

2. *NO_2 Increment Consumption Analyses by Major Sources*—assurance that air quality modeling analyses prepared for major source permit applications consider minor source emissions (which include minor point sources, area sources and mobile sources) since the minor source baseline date.

3. *NO_2 Increment Consumption Status Review*—periodic reviews of increment status for each section 107 area designated as attainment, summarized in a report for EPA and the public. Additionally, the State is required to prepare an initial report which covers the transition period between February 8, 1988 and the date on which EPA approves the revisions to the SIP for NO_2.

4. *Legal Authority*—certification that the State has the legal authority under State law to administer all of the NO_2 increment provisions of the SIP.

The State's May 2, 1991 submittal, and material submitted by the Utah Bureau of Air Quality on February 26, 1991 in a letter from F. Burnell Cordner, Executive Secretary, Utah Air Conservation Committee to Douglas Skie, EPA, addressed the above items. The submittal of February 26, 1991 contained an official version of the U.A.C.R. with a codification error, since there were two subparagraphs labeled as "(E)" in U.A.C.R. R446–1–3.6.5. Correction of this error was deemed a nonsubstantive change by the Utah Division of Administrative Rules (DAR), and in a letter of May 1, 1991 from Kenneth A. Hansen, Administrative Code Editor of the DAR, to Dave McNeill, Planning Section Manager of the Bureau of Air Quality, the State was notified that this correction had been made, effective May 1, 1991.

In addition to the NO_2 increment revisions, with the May 2, 1991 submittal, the State has also made several "housekeeping" changes in its definitions, and PSD and new source review provisions. The definitions changes include in modifications to, or addition of, the definitions of "fugitive emissions", "source", "incinerator", "owner or operator", "reasonable further progress", and "enforceable". The new sources review and PSD changes include modification to U.A.C.R. R446–1–3.1.10 to add the requirement that the owner or operator of a major new source or major modification which would emit carbon monoxide and impact a carbon monoxide nonattainment area must submit a adequate analysis of alternative sites, sizes, production processes and environmental control techniques; addition of subsection U.A.C.R. R446–1–3.1.11 to correspond to the federal provision at 40 CFR 51.165(a)(5)(ii); modification of the statement on banking of emission offset credits at U.A.C.R. R446–1–3.3.5 to explicitly identify applicable federal requirements; and modifications to the area redesignation provisions at U.A.C.R. R446–1–3.6.2 to include the word "federal" in several places. EPA is approving the revisions to the SIP to incorporate these changes.

Therefore, EPA believes that the State of Utah has adopted the minimum PSD program elements regarded as necessary for protection of the NO_2 increments.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective August 26, 1991, unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted.

If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective August 26, 1991.

Final Action: EPA is today approving revisions to Utah's SIP, submitted by the Governor on May 2, 1991, which modified the prevention of significant deterioration of air quality (PSD) portion of the SIP, Section 8, and the State's prevention of significant deterioration of air quality (PSD) regulations of the Utah Air Conservation Regulations, to incorporate the nitrogen dioxide (NO_2) increments. EPA is also approving several "housekeeping" modifications to Utah Air Conservation Regulations.

Nothing in this action should be construed as permitting or allowing or

establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to any state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities (46 FR 8709).

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years.

The Agency has reviewed this request for revision of the federally-approved SIP for conformance with the provisions of the 1990 Amendments enacted on November 15, 1990. The Agency has determined that this action conforms with those requirements irrespective of the fact that the submittal preceded the date of enactment. Approval of this specific revision to the SIP does not indicate EPA approval of the SIP in its entirety.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review must be filed in the United States Court of Appeals for the appropriate circuit by August 26, 1991. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Nitrogen dioxide.

Note: Incorporation by reference of the State.

Implementation Plan for the State of Utah was approved by the Director of the Federal Register on July 1, 1982.

Dated: May 17, 1991.

James J. Scherer,

Regional Administrator.

40 CFR part 52, subpart TT, is amended as follows:

Subpart TT—UTAH

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.2320 is amended by adding (c)(23) to read as follows:

§ 52.2320 Identification of plan.

* * * * *

(c) * * *

(23) On May 2, 1991 the Governor of Utah submitted revisions to the plan. The revisions include amendments to the prevention of significant deterioration (PSD) portion of the plan to incorporate the nitrogen dioxide (NO_2) increments, and several "housekeeping" changes to definitions, new source review, and PSD regulations.

(i) Incorporation by reference

(A) Revisions to the Utah Air Conservation Regulations, section R446–1–1, Foreword and Definitions, section R446–1–3, Control of Installations, and section R446–2–1, Utah State Implementation Plan Incorporation by Reference, effective January 1, 1991.

(B) Letter dated May 1, 1991, from Kenneth Hansen of the Utah Division of Administrative Rules to Dave McNeill of the Utah Bureau of Air Quality, confirming a codification change to paragraph R446–1–3.6.5, effective May 1, 1991. This letter contains a reprinted version of R446–1–3.6.5.

(ii) Additional material

(A) February 26, 1991, letter from F. Burnell Cordner, Executive Secretary, Utah Air Conservation Committee, to Douglas M. Skie, EPA, transmitting administrative materials for the SIP revision.

(B) May 2, 1991, letter from Norman H. Bangerter, Governor, State of Utah, to James J. Scherer, EPA. Official SIP submittal, transmitting the SIP narrative modifying section 8, Prevention of Significant Deterioration, and other administrative materials.

[FR Doc. 91–14955 Filed 6–26–91; 8:45 am]

BILLING CODE 6560–50–M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 105–68

General Services Administration Property Management Regulations: Common Rule: Drug-Free Workplace Requirements

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Final rule; correction.

SUMMARY: This document transmits editorial corrections to the General Services Administration Property Management Regulations (GSPMR), chapter 105, as a result of a general review of the final rule published in 41 CFR chapter 105–68 (Revised as of July 1, 1990).

EFFECTIVE DATE: June 27, 1991.

FOR FURTHER INFORMATION CONTACT: Ms. Ida M. Ustad, Office of GSA Acquisition Policy (VP), (202) 501–1224.

SUPPLEMENTARY INFORMATION:

List of Subjects in 41 CFR Part 105–68

Debarment and suspension (nonprocurement), Drug abuse, Grant programs.

In 41 CFR chapter 105–68 (Revised as of July 1, 1990), make the following corrections:

PART 105–68—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUGFREE WORKPLACE (GRANTS)

1. The authority citation for 41 CFR part 106–68 continues to read as follows:

Authority: Title 5, subtitle D; 41 U.S.C. 701 et seq.; 40 U.S.C. 486(c).

§ 105–68.305 [Corrected]

2. Section 105–68.305(c)(5) is corrected by changing "subpart F" in the second line of the paragraph to read "subpart 105–68.6."

§ 105–68.310 [Corrected]

3. Section 105–68.310 is corrected by adding "and 48 CFR subpart 509.4" at the end of the section.

§ 105–68.320 [Corrected]

4. Section 105–68.320(a) (1) and (2) is corrected by changing "subpart F" to "subpart 105–68.6."

§ 105–68.325 [Corrected]

5. Section 105–68.325(b)(3) is corrected by removing the repeated text, "may be imputed to other participants if the conduct occurred for or on behalf of the joint venture, grant pursuant to a joint application, or similar arrangement."

§ 105–68.410 [Corrected]

6. Section 105–68.410(b) is corrected by adding "and 48 CFR subpart 509.4" at the end of the paragraph.

§ 105–68.610 [Corrected]

7. Section 105–68.610(c) is corrected by changing "subparts A, B, C, D and E" to read "subparts 105–68.1, 105–68.2, 105–68.3, 105–68.4 and 105–68.5."

§§ 105–68.505, 105–68.510, Appendix A [Amended]

8. Sections 105–68.505(d), 105–68.510 (a) and (b), and appendix A, paragraph 8 are corrected by removing "(Tel. #)" and inserting in its place, "(202) 501–0688" in each paragraph where "(Tel. #)" appears.

Dated: June 12, 1991.

Ida M. Ustad,

Director, Office of GSA Acquisition Policy.

[FR Doc. 91–15300 Filed 6–26–91; 8:45 am]

BILLING CODE 6820–61–M

41 CFR Parts 301–1, 302–5, 302–6, and 302–12

[FTR Amendment 17]

RIN 3090–AE36

Federal Travel Regulation; Pre-Employment Interview Travel Expenses and Relocation Expenses of New Appointees

AGENCY: Federal Supply Service, GSA.

ACTION: Final rule; correction.

SUMMARY: This action corrects errors in a document amending the Federal Travel Regulation which was published May 23, 1991 (56 FR 23653).

EFFECTIVE DATE: February 14, 1991.

FOR FURTHER INFORMATION CONTACT: Robert A. Clauson, Travel Management Division (FBT), Washington, DC 20406, telephone FTS 557–1253 or commercial (703) 557–1253.

Accordingly, the following corrections are made to FR Doc. 91–12252 in the issue of May 23, 1991.

1. On page 23655, in the third column, under amendatory instruction 18., in the fifth line, the reference "§ 301–1.6(b)" should read "§ 301–1.6(c)", and in the sixth line, the reference "§ 301–1.103(b)" should read "§ 301–1.103(c)".

2. On page 23658, in the first column, the section title "§ 302–5.1 [Amended]" should read "§ 302–6.1 [Amended]".

3. On page 23658, in the first column, under amendatory instruction 50., in the first line, the reference "302–5.1(b)" should read "302–6.1(b)".

4. On page 23658, in the second column, under amendatory instruction 56., in the first line, the reference "302–12.4(a)(1)" should read "302–12.4(a)(2)".

Dated: June 21, 1991.

Donna D. Bennett,

Director, Travel Management Division.

[FR Doc. 91–15339 Filed 6–26–91; 8:45 am]

BILLING CODE 6820–24–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 160

[CGD 78–174b]

RIN 2115–AC16

Approval of Inflatable Lifejackets

AGENCY: Coast Guard, DOT.

ACTION: Adoption of interim final rule as final.

SUMMARY: On May 29, 1985 the Coast Guard published a notice of proposed rulemaking in the **Federal Register** which proposed structural and performance standards and procedures for approval of inflatable lifejackets, as well as requirements for associated manuals, servicing programs, and shore-side service facilities. On December 5, 1989 the Coast Guard published an interim final rule based on these proposals. Because the interim final rule contained several provisions which were not in the NPRM, the Coast Guard extended an opportunity for comment on these sections. This final rule adopts the interim final rule with only minor changes.

EFFECTIVE DATE: This rule becomes effective on July 29, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. Samuel Wehr, Office of Marine Safety, Security, and Environmental Protection, Attn: G–MVI–3/14, 2100 Second St. SW., Washington, DC 20593–0001, (202) 267–1444.

SUPPLEMENTARY INFORMATION:

Regulatory Background

A notice of proposed rulemaking (NPRM) was published in the **Federal Register** on May 29, 1985 (50 FR 21862 and 21878). Corrections to the NPRM were published in the **Federal Register** on June 18, 1985 (50 FR 25274). The comment period on the proposal ended on July 15, 1985.

An interim final rule was published in the December 5, 1989, issue of the **Federal Register** (54 FR 50316), with an effective date of January 4, 1990. The interim final rule changed the NPRM in several areas due to public comments, International Maritime Organization (IMO) clarifications of the 1983 Amendments to the International Convention for the Safety of Life at Sea, 1974 (SOLAS 74/83), and Coast Guard observations. These changes affected § 160.176–13(d)(3) and (4), Static Measurements and Average Requirements; § 160.176–13(g), Lanyard Pull Test; and § 160.176–19, Servicing.

Because these changes were not in the NPRM, the interim final rule invited comments on these sections. That comment period ended on January 19, 1990. Comments were received from three sources, including a lifejacket/personal flotation device (PFD) manufacturer, an independent laboratory, and the developer of a new type of inflation mechanism. All these comments addressed matters in addition to those which were open to comment. These comments are addressed below.

Additionally, the Coast Guard has become aware of the fact that several minor provisions were not entirely consistent with the scope of the Interim final rule. These provisions, also discussed below, have therefore been revised.

Hybrid Personal Flotation Devices (PFD's)

The NPRM proposed requirements for both hybrid PFD's and inflatable lifejackets. An interim final rule promulgating hybrid PFD requirements was published in the **Federal Register** on August 22, 1985 (50 FR 33923). Corrections to this rule were published on February 4, 1986 (51 FR 4349). Comments that addressed concerns relating to the hybrid requirements were analyzed and discussed in that publication. Some of those comments were also relevant to inflatable lifejackets and were discussed in the interim rule for inflatable lifejackets.

Carriage Requirements for Inflatable Lifejackets

Provisions relating to carriage of inflatable lifejackets as substitutes for other required lifejackets on board various types of vessels will be included in regulations being proposed in another rulemaking. That rulemaking is part of a project to update the lifesaving appliances and arrangements for all vessels to implement the 1983 Amendments to SOLAS 1974 (SOLAS 74/83) (Docket CGD 84–069) (new Subchapter W). Advance notice of that related rulemaking was published in the **Federal Register** of April 29, 1985 (50 FR 17530). A Notice of Proposed Rulemaking was published April 21, 1989 (54 FR 16198). Until that rulemaking is completed, inflatable lifejackets may be accepted for carriage under the equivalency provisions in the various vessel regulations by contacting the Commandant (G–MVI) (46 CFR 30.15, 46 CFR 70.15, 46 CFR 90.15, 46 CFR 108.105, 46 CFR 167.35–1, 46 CFR 169.109, and 46 CFR 175.15). The Coast Guard expects to follow the guidelines in the inflatable PFD NPRM published on May 29, 1985 (50 FR 21878) when granting an acceptance.

Drafting Information

The principal persons involved in drafting this rule are Mr. Samuel Wehr, Office of Marine Safety, Security, and Environmental Protection, and Lieutenant Ralph Hetzel, Office of Chief Counsel.

Discussion of Comments and Revisions Made

General

Two organizations commented on the interim final rule within the comment period. One was an independent laboratory which had commented previously and the other was a manufacturer of PFDs who had commented on the rules for hybrid PFDs. The laboratory primarily sought clarifications of the approval testing procedures. The PFD manufacturer questioned the reliability of inflation mechanisms.

A late comment from the developer of a new type of inflation mechanism suggested that new technology may become available shortly which could improve reliability of automatic inflation systems. This comment is discussed under the heading Reliability of Inflation Mechanisms.

None of the comments addressed §§ 160.176–13(d) (3) and (4); 160.176–13(g); or 160.176–19 which were the sections of the rule for which comments were requested. The comments did, however, point out typographical errors which have been corrected in this rulemaking. They also suggested clarifying language for a number of sections. Clarifications were adopted in §§ 160.176–5(a)(3)(iii); 160.176–13 (b)(1), (c)(4), (d)(2)(ii), and (j)(1)(ii); and 160.176–15(g)(3)(iii). None of these comments resulted in substantive changes to the rule.

The following comment discussion is divided into three areas:
—Changes made for clarification.
—Correction of errors.
—Additional matters.

Changes Made for Clarification

Section 160.176–5(a)(3)(iii). One comment recommended that some guidelines be established for the range of tolerances that should be allowed for buoyancy and torque as required to be set by this section. Present Coast Guard policy letters and approval practices allow ±10 percent tolerances for such values unless adequate justification is provided for wider tolerances. The Coast Guard also requires the prototype devices tested to tend toward the center of the specified tolerance range, or that the proposed tolerances be adjusted so that the production devices will be similar to the prototypes tested. Since similar types of guidelines are specified for the materials used to make the lifejacket, the Coast Guard agrees that the requested guidelines, reflecting present policy, should be added to this section.

Section 160.176–8 (k) and (m). In keeping with the scope covered in § 160.176–1(c)(2) of the interim final rule, the PFD light requirement has been revised to ensure that a light meeting SOLAS 74/83 is provided with the lifejacket. Also, in keeping with this scope and the SOLAS 74/83 Convention, a requirement has been added to require that a whistle be provided with the lifejacket. These items are required in order for the Coast Guard to issue a "SOLAS 74/83 certificate" for a vessel. The language of this change is essentially the same as the requirements published in the NPRM of April 21, 1989, previously discussed in this preamble.

Section 160.176–13(b)(1). A comment asked whether the donning instructions could be reviewed prior to the donning test. Since the vessel regulations require a briefing/demonstration of the use of the lifesaving equipment on board, the donning instructions may be reviewed prior to the donning attempt. Text has been added to the regulation to make it clear that the instructions may be reviewed.

Section 160.176–13(b)(2). A comment stated that the requirement to inflate the device in the donning time is significant because another inflation test has a 30 second time limit, and the devices have an automatic inflation mechanism. It should be noted that one of the standards referenced (UL 1517) does included inflation in the required 1 minute donning requirement. However, since the time for the device to fully inflate was not intended to be counted and the time limit is shorter, the wording of the preceding paragraph § 160.176–13(b)(1) (which sets the test conditions) has been changed to require the subject to "activate the inflation mechanism" instead of "inflate" the device.

Since the device need not actually inflate for this test, § 160.176–13(b)(1) has also been changed to allow the manual inflation mechanism to be disabled during the test.

Section 160.176–13(c)(4). A comment questioned the need for the oral inflation test of the packed device. This comment indicates that there is some misunderstanding of "packed" and "packaged". The test is intended to determine whether someone, who cannot forcefully exhale, can inflate a device that has "break-away" closures around the inflation chamber while it is worn or in the ready-to-use but uninflated condition. If the device could not comply with this test, the device may be unusable by such people in an emergency. The test is not intended to apply when the device is restricted by some kind of disposable packaging or closure that would be opened before donning or by the action of accessing the oral inflator. Since the text of the interim final rule caused confusion, it has been changed for clarity by explaining, in the introductory text of paragraph (c), that any non-reusable cover is to be removed prior to this test.

Section 160.176–13(d)(2)(ii). One comment suggested that the next to last sentence of this section be changed to clarify that a total of three righting evaluations is all that is required. The text of the regulation stated that "each subject repeats these steps three times". The comment suggested that "three" be changed to "two additional" times. The change has been made.

Correction of Errors

Spelling and Typographical Errors. One comment pointed out several spelling and typographical errors, which have been corrected. The affected sections are: 160.176–8(k), 160.176–13(a)(1), and 160.176–23 (c) and (e).

Rounding Error. One comment suggested that the accuracy of the scales be revised from ±13 grams to ±14 grams to be consistent with other related standards. The Coast Guard agrees. The value published in the Interim Final Rule was rounded off incorrectly and therefore has been revised to correct the error. The affected sections are: 160.176–13(j)(1)(ii) and 160.176–15(g)(3)(iii).

Additional Matters

General. As mentioned previously, none of the comments addressed the specific sections of the rule for which comments were requested. The remaining comments have been analyzed and found not to provide clarification or benefit. The analysis of all but two of these comments has been placed in the docket rather than in this publication because they are not of general interest. The other two comments are discussed under the following heading.

Reliability of Inflation Mechanisms. Two comments questioned the reliability of the automatic inflation mechanisms which will meet the requirements of the subpart, and § 160.176–9(b)(5) in particular. The testing required for approval will demonstrate whether a limited number of automatic inflation mechanisms will work under a variety of environmental

conditions. The subpart does not require enough samples to be tested to determine a statistically significant reliability value for the devices. Note, however, that no failures are permitted during the testing. The Coast Guard's position is that this regulation and the SOLAS 74/83 inflatable lifejacket requirements concerning back-up systems and annual servicing provide sufficient reliability that the overall lifesaving potential of the system is not compromised. When more comprehensive reliability information is available, the Coast Guard will consider requiring a demonstrated high reliability in place of, or in addition to, some of the current back-up inflators and servicing requirements. No change has been made at present.

Regulatory Evaluation

These regulations are considered to be non-major under Executive Order 12291 and non-significant under Department of Transportation regulatory policies and procedures (44 FR 11034, February 26, 1979). A regulatory evaluation has been prepared and placed in the rulemaking docket. It may be inspected and copied at the address listed above under **ADDRESSES**. Copies may also be obtained by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

The evaluation provides a detailed explanation of the estimated costs of these proposed regulations. The total approval costs per design are expected to be approximately $4,000 for inflatable lifejackets. Costs to approve other types of PFD's are approximately $2,000. The additional cost to approve inflatable lifejackets could easily be absorbed in the cost of the units produced. The cost increase per lifejacket would be small considering the number of lifejackets to be produced under authorization of each approval certificate. The Coast Guard anticipates that, within the first year after issuing the final rules, one or two inflatable lifejacket designs would be approved.

Production inspection costs imposed by these regulations will be approximately $1,000 for the largest size lot of inflatable lifejackets permitted. This cost is similar to that incurred for other types of approved PFD's.

The retail cost, per device, is expected to be $100–$200 for inflatable lifejackets. These costs would be optional since carriage is optional. Currently approved PFD's range in price from $7 to $200. Type I devices that could be replaced by inflatable lifejackets have an average cost of about $40.

These regulations provide an alternative to users for whom limited stowage space or other operational considerations make the carriage of conventional inherently buoyant PFD's impractical or inadvisable. For these users, the optional carriage of inflatable lifejackets will meet their specific operational needs and will therefore justify the higher cost relative to inherently buoyant PFD's.

These regulations will have little or no effect on federal, state, or local governments except in their capacities as consumers of PFD's. Coast Guard steps to implement these rules will be done within the scope of ongoing marine safety activities, and there will be no need for additional federal budget commitments.

Regulatory Flexibility Act

Based upon the information in the evaluation, as discussed above, the Coast Guard certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that, under section 2.B.2 of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation. The reasons for categorical exclusion are (1) the action is to carry out statutory authority in the area of maritime safety and (2) it is an administrative action which clearly has no environmental impact. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 46 CFR Part 160

Incorporation by reference, Marine safety, Reporting and recordkeeping requirements.

Accordingly, the interim final rule amending chapter I of title 46 of the Code of Federal Regulations which was published at 54 FR 50316 on December 5, 1989, is adopted as a final rule with the following changes.

PART 160—LIFESAVING EQUIPMENT

1. The authority citation for part 160 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703, 4104, and 4302; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p 277; 49 CFR 1.46.

2. Section 160.176–5 is amended by revising paragraph (a)(3)(iii) to read as follows:

§ 160.176–5 Approval procedures.

(a) *Modifications to general procedures.* * * *

(3) * * *

(iii) Buoyancy and torque values along with tolerances to be allowed in production. The Coast Guard normally will approve tolerances of up to ±10% unless prototypes are tested at greater extremes or greater tolerances are otherwise justified.

* * * * *

3. Section 160.176–8 is amended by revising paragraph (k) and adding paragraph (l) and (m) to read as follows:

§ 160.176–8 Materials.

* * * * *

(k) *PFD light.* Each lifejacket must have a PFD light that is approved under subpart 161.012 of this chapter and that meets the requirements of Regulations III/30.2 and III/32.3 of the 1983 Amendments to the International Convention for the Safety of Life at Sea, 1974 (SOLAS 74/83). The light must be securely attached to the front shoulder area of the lifejacket. Attachment of the light must not impair lifejacket performance.

(l) [Reserved]

(m) *Whistle.* Each lifejacket must have a whistle of the ball type or multi-tone type and of corrosion-resistant construction. The whistle must be securely attached to the lifejacket by a lanyard. The lanyard must be long enough to permit the whistle to reach the mouth of the wearer. If the lanyard would normally allow the whistle to hang below the waist of the average size wearer, the whistle must be stowed in a pocket on the lifejacket. The attachment of the whistle must not impair lifejacket performance.

4. Section 160.176–13 is amended by revising paragraphs (a)(1), (b)(1), (c) introductory text, (c)(4), (d)(2)(ii), and (j)(1)(ii) to read as follows:

§ 160.176–13 Approval tests.

(a) *General.*

(1) This section contains requirements for approval tests and examinations of inflatable lifejackets. Each test or examination must be conducted or supervised by an independent laboratory. The tests must be done using lifejackets that have been constructed in accordance with the plans and specifications in the application for

approval. Unless otherwise specified, only one lifejacket, which may or may not have been subjected to other tests, is required to be tested in each test. One or more lifejackets that have been tested as prescribed in paragraph (h) of this section must be used for the tests prescribed in paragraphs (j), (n), (q), and (r) of this section. The tests prescribed in paragraph (y) of this section require one or more lifejackets as specified in that paragraph.

* * * * *

(b) *Donning.*

(1) No second stage donning is allowed in the tests in this paragraph. Test subjects may read the donning instructions to be provided with the device, if any. An uninflated lifejacket with size adjustment at its mid-range is given to each test subject with the instruction: "Please don as quickly as possible, adjust to fit snugly, and inflate." Each subject must, within one minute, don the uninflated lifejacket, adjust it to fit snugly, and then activate the manual inflation mechanism.

Note: For this test the manual inflation mechanism may be disabled.

* * * * *

(c) *Inflation Testing.* No second stage donning is allowed in the tests in this paragraph. A lifejacket with each automatic inflation mechanism disabled must be used for the tests prescribed in paragraphs (c)(1) and (c)(2) of this section. For the tests prescribed in paragraph (c)(4) of this section, remove any non-reusable cover or packaging from the lifejacket, but do not open any cover or closure which is intended to be closed when the lifejacket is worn in the uninflated condition.

* * * * *

(4) Air at a pressure of 4.2 kPa (0.6 psig) is applied separately to each oral inflation mechanism of the lifejacket. In each application the chamber must fully inflate within 1 minute.

* * * * *

(d) *Flotation Stability.* * * *

(2) *Righting Action.* * * *

(ii) Each subject then takes three gentle breast strokes and while still face-down in the water, relaxes completely while slowly exhaling to FRC. Each subject remains in this limp position long enough to determine if the lifejacket will turn the subject from the face-down position to a position in which the subject's breathing is not impaired. The time from the last breast stroke until breathing is not impaired is recorded. Each subject repeats these steps two additional times, and the average time for the three righting actions is calculated. This average time must not exceed 5 seconds.

* * * * *

(j) *Buoyancy and Inflation Medium Retention Test.* * * *

(1) *Equipment.* * * *

(ii) A scale that is sensitive to 14 g (0.5 oz.) and that has an error of less than ±14 g (0.5 oz.).

* * * * *

5. Section 160.176–15 is amended by revising paragraph (g)(3)(iii) to read as follows:

§ 160.176–15 Production tests and inspections.

* * * * *

(g) *Facilities and Equipment.* * * *

(3) *Equipment.* * * *

(iii) *A scale* that has sufficient capacity to weigh a submerged basket for buoyancy tests. The scale must be sensitive to 14 g (0.5 oz.) and must not have an error exceeding ±14 g (0.5 oz.).

* * * * *

§ 160.176–23 [Amended]

6. Section 160.176–23 is amended by removing the paragraph number and heading "(3) *Approved Applications." and inserting in its place "(e) Approved Applications.".*

Dated: April 30, 1991.

J.D. Sipes,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 91–15349 Filed 6–26–91; 8:45 am]

BILLING CODE 4910–14–M

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 538 and 552

[APD 2800.12A CHGE 25]

General Services Administration Acquisition Regulation; Implementation of Public Law 99–506

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR) is revised to further the policy expressed in section 508 of the Rehabilitation Act of 1973, as amended (Pub. L. 99–506) (29 U.S.C. 794d) by prescribing a clause for inclusion in multiple award schedules for electronic office equipment that encourages offerors to identify those products which provide accessibility for handicapped individuals. The General Services Administration believes that the strictly voluntary participation by vendors will be beneficial not only to schedule users, who will become more aware of the availability of electronic office equipment providing accessibility, but to the vendors, themselves, because the identification of such equipment will serve as a valuable marketing tool.

EFFECTIVE DATE: July 8, 1991.

FOR FURTHER INFORMATION CONTACT: Paul Linfield, Office of GSA Acquisition Policy (202) 501–1224.

SUPPLEMENTARY INFORMATION:

A. Background

Section 508 of the Rehabilitation Act of 1973, as amended, mandates that the Administrator of General Services, together with the Secretary of Education and in consultation with the electronics industry, develop and establish guidelines for electronic equipment accessibility designed to ensure that handicapped individuals may use electronic office equipment with or without special peripherals. Furthermore, the Administrator is directed to adopt those guidelines for Federal procurement of electronic equipment. Mandatory coverage regarding office equipment accessibility for all automatic data processing equipment acquisitions is provided in the Federal Information Resources Management Regulation (FIRMR).

B. Determination not to Solicit Public Comment

Under multiple award schedules, contractors currently are required to submit certain marketing information with their offers and to publish and distribute to ordering agencies commercial catalogs and/or pricelists. Because this change merely requests the voluntary identification of certain information currently submitted by contractors, this rule does not constitute a significant revision requiring solicitation of public comment.

C. Executive Order 12291

The Director, Office of Management and Budget (OMB), by memorandum dated September 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. The exemption applies to this rule.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (Pub. L. 96–354) does not apply to this rule because it is not a "significant revision" as defined in FAR 1.501–1.

E. Paperwork Reduction Act

This regulation contains information collection and/or recordkeeping requirements. GSA believes, however, that the time and financial resources necessary for members of the public to comply with those requirements are limited to those that are ordinarily incurred in the normal course of business activities. Specifically, vendors normally prepare catalogs and pricelists which are furnished to prospective buyers as a means of marketing and advertising the vendor's products. Accordingly, this information collection is approved under OMB Control Number 3090–0250 (expires 11/30/92), "Zero Burden Information Collections." Comments regarding the information collection requirements contained in the proposed rule may be sent to: GSA Desk Officer, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, and to Mr. Paul Linfield, Office of GSA Acquisition Policy, room 4025, 18th & F Streets NW., Washington, DC, 20405.

List of Subjects in 48 CFR Parts 538 and 552

Government procurement.

1. The authority citation for 48 CFR parts 538 and 552 continues to read as follows:

Authority: 40 U.S.C. 486(c).

PART 538—[AMENDED]

2. Section 538.000 is revised to read as follows:

538.000 Scope of part.

Unless otherwise stated, the policies and procedures in this part are prescribed for contracting for supplies and services by the Federal Supply Service (FSS) and the Information Resources Management Service (IRMS) under their respective schedule programs.

3. Section 538.203–71 is revised to read as follows:

538.203–71 Contract clauses.

(a) The contracting officer shall insert the clause at 552.238–72, Contractor's Report of Orders Received, in solicitations issued and contracts awarded under GSA's schedule program. Paragraph (b) of the basic clause may be modified as necessary to meet program requirements. If it is necessary to identify the official responsible for preparing the report, the contracting officer may use the clause with its Alternate I. When the clause is used by IRMS, the contracting officer shall use the clause with its Alternate II.

(b) The contracting officer shall insert the clause at 552.238–70, Identification of Electronic Office Equipment Providing Accessibility for the Handicapped, in solicitations and contracts awarded under the multiple award schedule program when the solicitation includes electronic office equipment.

4. Section 55.238–70 is added to read as follows:

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

552.238–70 Identification of Electronic Office Equipment Providing Accessibility for the Handicapped.

As prescribed in 538.203–71(b), insert the following clause:

Identification of Electronic Office Equipment Providing Accessibility for the Handicapped (May 1991)

(a) *Definitions.* "Electronic office equipment accessibility" means the application/configuration of electronic office equipment in a manner that accommodates the functional limitations of individuals with disabilities (i.e., handicapped individuals) so as to promote productivity and provide access to work related and/or public information resources.

"Handicapped individuals" means qualified individuals with impairments as cited in 29 CFR 1613.702(f) who can benefit from electronic office equipment accessibility.

"Special peripheral" means a special needs aid that provides access to electronic equipment that is otherwise inaccessible to a handicapped individual.

(b) The offeror is encouraged to identify in its offer, and include in any commercial catalogs and pricelists accepted by the Contracting Officer, office equipment, including any special peripheral, that will facilitate electronic office equipment accessibility for handicapped individuals. Identification should include the type of disability accommodated and how the users with that disability would be helped.

Dated: June 19, 1991.

Richard H. Hopf, III,

Associate Administrator for Acquisition Policy.

[FR Doc. 91–15312 Filed 6–26–91; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 901184–1042]

Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of prohibition of retention; request for comments.

SUMMARY: The Regional Director, Alaska Region, NMFS (Director), is prohibiting further retention of the shortraker/rougheye (SRRE) species category by vessels fishing in the Eastern and Central Regulatory areas of the Gulf of Alaska (GOA) and is requiring that SRRE be treated in the same manner as a prohibited species. This action is necessary to prevent overfishing of this species category and is intended to promote optimum use of groundfish stocks.

DATES: *Effective:* 12 noon on June 21, 1991, Alaska local time, through 12 midnight, December 31, 1991. Comments are invited until July 6, 1991.

ADDRESSES: Comments should be mailed to Dale R. Evans, Chief, Fisheries Management Division, National Marine Fisheries Service, P.O. Box 21668, Juneau, Alaska 99802–1668, or be delivered to 9109 Mendenhall Mall Road, Federal Building Annex, suite 6, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, Resource Management Specialist, NMFS, 907–586–7228.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Gulf of Alaska Groundfish Fishery (FMP) governs the groundfish fishery in the exclusive economic zone in the GOA under the Magnuson Fishery Conservation and Management Act. The FMP was prepared by the North Pacific Fishery Management Council (Council) and was implemented by regulations appearing at 50 CFR 611.92 and parts 620 and 672.

The Guidelines for Fishery Management Plans (Guidelines), 50 CFR 602.11(c)(1) (July 24, 1989; 54 FR 30834), define overfishing as a level or rate of fishing mortality that jeopardizes the long-term capacity of a stock or stock complex to produce its maximum sustainable yield on a continuing basis. Furthermore, Amendment 21 to the FMP (January 24, 1991; 56 FR 2700), requires

that conservation and management measures shall prevent overfishing.

In accordance with § 672.22(a)(2)(i)(A), if the Secretary of Commerce (Secretary) determines that the overfishing of any species or stock of fish may occur, under § 672.22(a)(1), he may issue an inseason adjustment to the groundfish fisheries taking into account all information relevant to one or more of the following factors: (i) The effect of overall fishing effort within a regulatory area; (ii) catch per unit of effort and rate of harvest; (iii) relative abundance of stocks within the area; (iv) the condition of the stock within all or part of a regulatory area; (v) economic impacts on fishing businesses being affected; (vi) or any other factor relevant to the conservation and management of groundfish species for which a total allowable catch (TAC) has been specified.

The FMP describes the maximum fishing mortality rate that defines the amount of harvest that constitutes overfishing for fisheries in that regulatory area. In their report to the Council for the GOA, the Scientific and Statistical Committee (SSC) recommended the allowable biological catch (ABC) for the SRRE group at 2,000 metric tons (mt) and noted that it was equivalent to the definition of overfishing. The Advisory Panel of the Council recommended that the TAC equal the ABC, which was adopted by the Council. The final notice of 1991 initial specifications (March 1, 1991; 56 FR 8723) established an ABC and TAC of 2,000 mt for SRRE in the GOA. It further apportioned the TAC among the three regulatory areas as follows: Western Gulf—100 mt; Central Gulf—1,320 mt; and Eastern Gulf-580 mt.

Under directed fishing standards at § 672.20(g)(3), directed fishing for SRRE is defined as retention of SRRE at any time during a trip in amounts greater than or equal to 20 percent of the amount of all other fish species retained at the same time by the vessel during the same trip. The best available information indicates that ordinarily the amount of SRRE caught incidentally in directed fisheries for other groundfish is less than that amount allowed under the directed fishing standards. However, in consideration of the high value and desirability of this species group (and the potential under § 672.20(g)(3) to harvest the maximum allowable bycatch) the remaining TAC of SRRE may not be large enough to allow sufficient true bycatch needed to continue other target groundfish fisheries in the GOA for the remainder of the year. Therefore, in order to prevent reaching the level of overfishing by take of SRREs, and on the basis of the information summarized below, the Secretary issues this inseason adjustment closing the fishing season for SRRE in the Eastern and Central Regulatory areas of the GOA. After June 21, 1991, fishermen must treat SRRE harvested from the Eastern and Central Regulatory areas as a prohibited species as described in § 672.20(e). The Secretary has determined this is the least restrictive management adjustment necessary to prevent reaching overfishing of SRRE.

Pursuant to § 672.22(a)(3), the Regional Director considered all information relevant to the following factors in making the determination required under paragraph (a)(2) of § 672.22.

1. *The effect of overall fishing effort within a regulatory area*—SRREs are a highly valued fish. Some fishermen are able to target on them and to some extent avoid them, and they occur as incidental catch in other directed fisheries. Currently there are at least eight directed fisheries in the GOA that are likely to take SRRE as incidental catch.

2. *Catch per unit of effort and rate of harvest*—If the SRRE species group in these areas is maintained in the bycatch status, which allows for a retention in amounts less than 20 percent of all other fish species retained on board, the remaining TAC of this species category will be exceeded prior to the end of the fishing year. By prohibiting the retention of SRRE, the Director will remove all incentive to target that species group thereby reducing the potential of overfishing.

3. *Relative abundance of stocks within an area*—The SSC estimated the exploitable biomass of SRREs at 72,600 mt in the GOA. Prior to 1991, the SRREs were part of the slope rockfish species group. As a group, the slope rockfish have declined substantially in recent years (1991 SAFE Report—GOA).

4. *Economic impacts on fishing businesses being affected*—Should the catch of SRRE exceed the ABC as established by the SSC, the stock would become overfished. Management measures would have to be taken to prevent the catch of SRRE in excess of the ABC, such as the termination of other fisheries in the GOA. The cessation of other fisheries in the GOA would result in a major negative economic impact on fishing businesses.

Classification

This action is taken under 50 CFR 672.22 and is in compliance with Executive Order 12291.

Immediate effectiveness of this notice is necessary to prevent overfishing of SRRE stocks. Therefore, the Assistant Administrator for Fisheries, NOAA, finds for good cause that it is impractical and contrary to the public interest to provide prior notice and comment on this notice or to delay its effective date. However, interested persons are invited to submit comments in writing to the above address until July 6, 1991.

List of Subjects in 50 CFR Part 672

Fish, Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 21, 1991.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 91-15282 Filed 6-21-91; 4:41 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 56, No. 124
Thursday, June 27, 1991

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1205

[CN-91-007]

Amendment to the Cotton Research and Promotion Regulations for Cotton Board Membership

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal would amend the Cotton Research and Promotion regulations regarding Cotton Board membership. This proposal would establish a procedure for determining the number of importer members and alternate members to serve on the Cotton Board based on the annual volume of imported cotton and cotton products. Also, this proposal would provide for participation of importers in nominating importers to serve as members and alternate members on the Cotton Board.

DATES: Written comments concerning the proposed rule must be sent in triplicate and received no later than July 12, 1991.

ADDRESSES: Written comments should be sent to: Craig Shackelford, USDA, AMS, Cotton Division; P.O. Box 96456; room 2641–S; Washington, DC 20090–6456. All comments will be made available for public inspection at the Office of the Docket Clerk during regular business hours. All comments should reference the date and page of the **Federal Register** publication. In addition, comments concerning the information collection requirements should be sent to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Desk Officer for Agricultural Marketing Service, USDA.

FOR FURTHER INFORMATION CONTACT: Craig Shackelford (202) 447–2259.

SUPPLEMENTARY INFORMATION: These amendments to the regulations regarding Cotton Board membership are proposed in accordance with the Cotton Research and Promotion Act Amendments of 1990 (Subtitle G of title XIX of the Food, Agriculture, Conservation and Trade Act of 1990, Public Law 101–624, November 28, 1990) which amended the Cotton Research and Promotion Act (7 U.S.C. 2101 *et. seq.*). The provisions of the Cotton Research and Promotion Act Amendments of 1990 are to be implemented by an amendment to the Cotton Research and Promotion Order. A proposed Order was issued by the Department of Agriculture and published in the **Federal Register**, April 10, 1991 (56 FR 14482). Written comments concerning the proposed Order were to be received no later than May 10, 1991. The proposed Order will not become effective unless approved in a referendum to be held in accordance with the requirements of the 1990 Act amendments. Should the proposed Order be approved in the referendum, the proposed amendments to the regulations regarding Cotton Board membership would be necessary.

This proposed rule has been reviewed in accordance with Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a non-major rule under Executive Order 12291 since it does not meet the criteria for a major regulatory action contained in that Order.

The Administrator, Agricultural Marketing Service (AMS), has considered the economic impact of this proposed action on small entities pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). There are an estimated 35,000 domestic cotton producers who are presently subject to the regulation regarding Cotton Board membership. There are also an estimated 10,000 importers that would become subject to the regulations. The majority of these producers and importers would be classified as small businesses under the criteria established by the Small Business Administration. The economic impact of this proposal is not expected to be significant. Also, importers who would be selected as members to the Cotton Board would serve without compensation but would be reimbursed for necessary expenses, as approved by the Board, incurred by them in their performance of their duties under the Order. Accordingly, the Administrator of AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

In compliance with Office of Management and Budget (OMB) regulations (5 CFR part 1320) which implement the Paperwork Reduction Act (PRA) of 1980 (44 U.S.C. chapter 35) and Section 3504(h) of the PRA, the information collection and recordkeeping requirements for domestic producers and importers contained in this subpart, have been approved and assigned OMB control number 0581–0093. Individual producers and importers nominated to the Board will be required to submit a membership background information sheet previously approved by OMB and assigned OMB control number 0505–0001. The estimated number of producer and importer respondents is 32 per year. The estimated number of importer respondents is 8 per year. Each respondent would submit one response when nominated, with an estimated average reporting burden of 0.5 hour per response.

Comments concerning the information collection requirements contained in this action should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Attention: Desk Officer for Agricultural Marketing Service, USDA.

This proposal establishes procedures for determining how many importer representatives should serve on the Cotton Board and the procedures importers would follow in nominating potential Cotton Board members. The proposal establishes these procedures to reflect procedures already existing for cotton producers.

The volume of baled lint Upland cotton imported and the cotton content of imported products in terms of 480 pound bales would be used to determine in accordance with the provisions of § 1205.322 of the proposed Order how many additional persons above the base number of two should represent importers on the Cotton Board. The proposed Order published in the April 10, 1991, **Federal Register** (56 14482) provided that membership on the Cotton Board would be for cotton importers by one member for each 1 million bales or

major fraction (more than one-half) thereof of imported cotton subject to assessments during the period specified in the regulations for determining Board membership. In addition, the proposed Order provided that the number of cotton importers represented on the Cotton Board would in no case be less than two and the percentage of importers represented on the Board would in no case be greater than 20 percent. All importer members appointed would serve out their three-year terms even if the volume of imported cotton should decrease. Each year in approximately July, the Director of the Cotton Division would contact certified importer organizations notifying each of the number of importer vacancies to be filled on the Cotton Board.

The Director will work with the certified importer organizations to determine a time and place for all such importer organizations to caucus for nominating importers to serve on the Cotton Board. Each organization would be entitled to have one representative attend the nominating caucus. The representatives of the importer organizations would jointly nominate two qualified persons for each member and alternate member position vacant. The proposed procedures reflect procedures already established for cotton producer nominations. References to Order section numbers in the proposal reflect the Order section numbers as proposed in the April 10, 1991, **Federal Register** (56 FR 14482). Also, the authority citation for Part 1205 would be amended for clarity.

Written comments are requested from interested persons regarding this proposal. A 15 day comment period is considered appropriate and is necessary so that the U.S. Department of Agriculture and cotton importers may begin planning for importer representation on the Cotton Board that may be adopted as soon as possible. Caucuses for nominating members to the Cotton Board take considerable time to plan. Early establishment of any procedures that may be adopted as a result of this rulemaking would allow importer caucuses to be held as soon as possible, thereby assisting in timely implementation of the Act amendments of 1990.

List of Subjects in 7 CFR Part 1205

Advertising, Agricultural research, Cotton, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 1205 is proposed to be amended as follows:

PART 1205—COTTON RESEARCH AND PROMOTION

1. The authority citation for part 1205 is revised to read as follows:

Authority: Cotton Research and Promotion Act, as amended, 7 U.S.C. 2101–2118.

2. Section 1205.402 is revised to read as follows:

§ 1205.402 Determination of Cotton Board membership.

(a) In determining whether any cotton producing state is entitled to be represented by more than one member of the Cotton Board pursuant to § 1205.322, average annual production in terms of 480-pound net weight bales for the five most recent marketing years shall be used as the criteria for determination of such additional members.

(b) In determining whether importers of cotton and products containing cotton are entitled to be represented by more than two members of the Cotton Board pursuant to § 1205.322, average annual imports of cotton and products containing cotton in terms of 480-pound net weight bales for the five most recent calendar years shall be used as the criteria for determination of such additional members.

(c) All members appointed from a state shall be entitled to serve a full three-year term even though it is determined in a subsequent year that a state should have fewer additional members by using the average production of the five most recent marketing years as specified in paragraph (a) of this section.

(d) All members appointed to represent importers shall be entitled to serve a full three-year term even though it is determined in a subsequent year that importers should be represented by fewer additional members by using the average of imports of cotton and products containing cotton of the most recent five calendar years as specified in paragraph (b) of this section.

(e) Each year the Director shall:

(1) Based on the average annual production of Upland cotton in terms of 480-pound net weight bales for the five most recent marketing years, notify all certified cotton producer organizations in each cotton producing state of the number of vacancies to be filled by cotton producers on the Cotton Board; and

(2) Based on the average annual imports of cotton and products containing cotton in terms of 480-pound net weight bales for the five most recent calendar years, notify all certified cotton importer organizations of the number of vacancies to be filled by cotton importers on the Cotton Board.

3. Section 1205.403 "Nomination procedure" is revised to read as follows:

§ 1205.403 Nomination procedure.

(a) The Director shall notify all certified producer organizations within each cotton producing state and all certified importer organizations of the location, date, and time of the caucus of such organizations pursuant to § 1205.324 for the purpose of making nomination for members and alternate members of the Cotton Board. The Director will designate a representative from the Cotton Division to attend the caucus meeting of cotton producer organizations in each state, and of cotton importer organizations. Each eligible cotton producer organization within each cotton producing state and each importer organization shall be entitled to only one representative at the caucus for the purpose of nominating two qualified persons for each member and for each alternate member to be selected. Representatives for cotton producer organization shall be a cotton producer and resident of such state, an officer or member of the Board of Directors of such organization, and duly and unqualifiedly authorized in writing by such organization to make nominations on its behalf. Representatives for importer organizations shall be an importer of cotton and/or products containing cotton, an officer or member of the Board of Directors of such organization, and duly and unqualifiedly authorized in writing by such organization to make nominations on its behalf. The representative of the Director designated to attend the caucus meeting of cotton producer organizations in each state and of cotton importer organizations shall ascertain the qualifications and eligibility of each representative of a cotton producer organization or cotton importer organization to participate in said meeting and to make nominations.

(a) Each caucus shall be conducted as follows:

(1) The representative from the Cotton Division shall act as temporary chairperson and shall explain the procedure for nominations and the duties of the Cotton Board;

(2) The representatives in attendance from the certified organizations shall then select a chairperson and secretary;

(3) At each caucus there shall be presented for nomination and there shall be nominated not less than the number of nominees required under the

provisions of §§ 1205.322, 1205.324, and 1205.402.

Dated: June 21, 1991.

Daniel Haley,

Administrator.

[FR Doc. 91–15190 Filed 6–26–91; 8:45 am]

BILLING CODE 3410–02–M

Rural Electrification Administration

7 CFR Part 1755

General Specifications for Digital, Stored Program Controlled Central Office Equipment

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of correction and extension of the comment period.

SUMMARY: The Rural Electrification Administration (REA) published a proposed rule in the Federal Register on Thursday, March 14, 1991, (56 FR 10835) to revise telephone standards and specifications by rescinding REA Bulletin 345–165 (REA Form 522) and issuing a revised version as Bulletin 1753E–001 (522). Due to an error in the proposal, REA is extending the comment period to provide interested persons with additional time in which to prepare comments.

DATES: Written comments must be submitted on or before July 29, 1991. REA requests an original and three copies of all comments.

ADDRESSES: Comments must be mailed to Donald M. Van Bellinger, Director, Telecommunications Staff Division, Rural Electrification Administration, room 2835, South Building, USDA, Washington, DC 20250–1500.

All comments received will be made available for public inspection during regular business hours at the address above (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Joseph A. Baude, Acting Chief, Central Office Equipment Branch, Telecommunications Staff Division, Rural Electrification Administration, room 2832, South Building, USDA, Washington, DC 20250–1500, telephone (202) 382–1443.

SUPPLEMENTARY INFORMATION: The Rural Electrification Administration (REA) published a proposed rule in the Federal Register on Thursday, March 14, 1991, (56 FR 10835). Page 10837 of the proposal contains an error which was corrected by the Office of the Federal Register (OFR) on Wednesday, April 24, 1991, (56 FR 18878). 15.4.2 d. was corrected to read:

d. In central office switching systems of less than 400 equipped lines, any single nonduplicated power converter failure shall not cause a complete loss of service to more than 25 percent of the total equipped lines.

REA has determined that an extension of time to allow for additional comments would prove beneficial and the comment period is hereby extended until July 29, 1991.

Authority: 7 U.S.C. 901 *et seq.*, 7 U.S.C. 1921 *et seq.*

Dated: June 19, 1991.

Gary C. Byrne,

Administrator.

[FR Doc. 91–15204 Filed 6–26–91; 8:45 am]

BILLING CODE 3410–15–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

Indiana Regulatory Program; Revegetation, Nonprime Farmland, Underground Mining Operations

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing receipt of a proposed amendment submitted by Indiana as a modification to the State's regulatory program (hereinafter referred to as the Indiana program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The amendment (Program Amendment Number 91–6) consists of proposed changes to the Indiana Surface Mining Rule provisions concerning revegetation of nonprime farmland for underground mining operations. The amendment is intended to amend the revegetation success standards for nonprime farmland areas affected by underground mining operations.

This notice sets forth the times and locations that the Indiana program and the proposed amendment to that program will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed for a public hearing, if one is requested.

DATES: Written comments must be received on or before 4 p.m. on July 29, 1991; if requested, a public hearing on the proposed amendment is scheduled for 1 p.m. on July 22, 1991; and requests to present oral testimony at the hearing must be received on or before 4 p.m. on July 12, 1991.

ADDRESSES: Written comments and requests to testify at the hearing should be directed to Mr. Richard D. Rieke, Director, Indianapolis Field Office, at the address listed below. If a hearing is requested, it will be held at the same address.

Copies of the Indiana program, the amendment, a listing of any scheduled public meetings, and all written comments received in response to this notice will be available for public review at the following locations, during normal business hours, Monday through Friday, excluding holidays:

Office of Surface Mining Reclamation and Enforcement, Indianapolis Field Office, Minton-Capehart Federal Building, 575 North Pennsylvania Street, room 301, Indianapolis, IN 46204. Telephone: (317) 226–6166.

Indiana Department of Natural Resources, 402 West Washington Street, room 295, Indianapolis, IN 46204. Telephone: (317) 232–1547.

Each requester may receive, free of charge, one copy of the proposed amendment by contacting the OSM Indianapolis Field Office.

FOR FURTHER INFORMATION CONTACT: Mr. Richard D. Rieke, Director, Telephone (317) 226–6166; (FTS) 331–6166.

SUPPLEMENTARY INFORMATION:

I. Background on the Indiana Program

On July 29, 1982, the Indiana program was made effective by the conditional approval of the Secretary of the Interior. Information pertinent to the general background on the Indiana program, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Indiana program can be found in the July 26, 1982, Federal Register (47 FR 32107). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 914.10, 914.15, and 914.16.

II. Discussion of the Proposed Amendments

By letter dated May 23, 1991 (Administrative Record No. IND–0874), the Indiana Department of Natural Resources (IDNR) submitted a proposed amendment to the Indiana program at Indiana Administrative Codes (IAC) 310 IAC 12–5. The proposed amendment would repeal 310 IAC 12–5–65, 310 IAC 12–5–128, and 310 IAC 12–5–129 and add new sections 310 IAC 12–5–128.1, 128.2,

and 128.3. The added sections would establish standards at underground mine areas for: Revegetation success for nonprime farmlands; revegetation sampling techniques for nonprime farmland; and statistical methodology to evaluate the success of revegetation.

The full text of the proposed program amendment submitted by Indiana is available for public inspection at the addresses listed above. The Director now seeks public comment on whether the proposed amendment is no less effective than the Federal regulations. If approved, the amendment will become part of the Indiana program.

III. Public Comment Procedures

In accordance with provisions of 30 CFR 732.17(h), OSM is now seeking comment on whether the amendment proposed by Indiana satisfies the requirements of 30 CFR 732.15 for the approval of State program amendments. If the amendment is deemed adequate, it will become part of the Indiana program.

Written Comments

Written comments should be specific, pertain only to issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **"DATES"** or at locations other than the Indianapolis Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under **"FOR FURTHER INFORMATION CONTACT"** by the close of business on July 12, 1991. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and who wish to do so will be heard following those scheduled. The hearing will end after all persons who desire to comment have been heard.

Public Meeting

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing may be held.

Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting at the Indianapolis Field Office by contacting the person listed under **"FOR FURTHER INFORMATION CONTACT."** All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed above under **"ADDRESSES."** A summary of the meeting will be included in the Administrative Record.

List of Subjects in 30 CFR Part 914

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 19, 1991.

Carl C. Close,

Assistant Director, Eastern Support Center.

[FR Doc. 91–15256 Filed 6–26–91; 8:45 am]

BILLING CODE 4310–05–M

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30 CFR Part 914

Indiana Regulatory Program; Revegetation, Nonprime Farmland

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing receipt of a proposed amendment submitted by Indiana as a modification to the State's regulatory program (hereinafter referred to as the Indiana program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The amendment (Program Amendment Number 91–4) submitted consists of proposed changes to the Indiana Surface Mining Rule provisions concerning revegetation of nonprime farmland. The amendment is intended to establish revegetation success standards for nonprime farmland areas affected by surface mining operations.

This notice sets forth the times and locations that the Indiana program and the proposed amendment to that program will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed for a public hearing, if one is requested.

DATES: Written comments must be received on or before 4 p.m. on July 29, 1991, if requested, a public hearing on the proposed amendment is scheduled for 1 p.m. on July 22, 1991; and requests to present oral testimony at the hearing must be received on or before 4 p.m. on July 12, 1991.

ADDRESSES: Written comments and requests to testify at the hearing should be directed to Mr. Richard D. Rieke, Director, Indianapolis Field Office, at the address listed below. If a hearing is requested, it will be held at the same address.

Copies of the Indiana program, the amendment, a listing of any scheduled public meetings, and all written comments received in response to this notice will be available for public review at the following locations, during normal business hours, Monday through Friday, excluding holidays:

Office of Surface Mining Reclamation and Enforcement, Indianapolis Field Office, Minton-Capehart Federal Building, 575 North Pennsylvania Street, room 301, Indianapolis, IN 46204. Telephone: (317) 226–6166.

Indiana Department of Natural Resources, 402 West Washington Street, room 295, Indianapolis, IN 46204. Telephone: (317) 232–1547.

Each requester may receive, free of charge, one copy of the proposed amendment by contacting the OSM Indianapolis Field Office.

FOR FURTHER INFORMATION CONTACT: Mr. Richard D. Rieke, Director, Telephone (317) 226–6166; (FTS) 331–6166.

SUPPLEMENTARY INFORMATION:

I. Background on the Indiana Program

On July 29, 1982, the Indiana program was made effective by the conditional approval of the Secretary of the Interior. Information pertinent to the general background on the Indiana program, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Indiana program can be found in the July 26, 1982 **Federal Register** (47 FR 32107). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 914.10, 914.15, and 914.16.

II. Discussion of the Proposed Amendments

By letter dated May 22, 1991, (Administrative Record No. IND–0872), the Indiana Department of Natural Resources (IDNR) submitted a proposed amendment to the Indiana program at Indiana Administrative Code (IAC) 310 IAC 12–5–64. The proposed amendment would repeal 310 IAC 12–5–64 and add sections 64.1, 64.2, and 64.3. The added sections would establish standards for: Revegetation success for nonprime farmlands; revegetation sampling techniques for nonprime farmland; and

statistical methodology to evaluate the success of revegetation.

The full text of the proposed program amendment submitted by Indiana is available for public inspection at the addresses listed above. The Director now seeks public comment on whether the proposed amendment is no less effective than the Federal regulations. If approved, the amendment will become part of the Indiana program.

III. Public Comment Procedures

In accordance with provisions of 30 CFR 732.17(h), OSM is now seeking comment on whether the amendment proposed by Indiana satisfies the requirements of 30 CFR 732.15 for the approval of State program amendments. If the amendment is deemed adequate, it will become part of the Indiana program.

Written Comments

Written comments should be specific, pertain only to issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **"DATES"** or at locations other than the Indianapolis Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under **"FOR FURTHER INFORMATION CONTACT"** by the close of business on July 12, 1991. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and who wish to do so will be heard following those scheduled. The hearing will end after all persons who desire to comment have been heard.

Public Meeting

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held.

Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting at the Indianapolis Field Office by contacting the person listed under **"FOR FURTHER INFORMATION CONTACT."** All such meetings will be open to the public and, if possible, notices of meetings will be posted in advance at the locations listed above under **"ADDRESSES."** A summary of the meeting will be included in the Administrative Record.

List of Subjects in 30 CFR Part 914

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 19, 1991.

Carl C. Close,

Assistant Director, Eastern Support Center.

[FR Doc. 91-15257 Filed 6-26-91; 8:45 am]

BILLING CODE 4310-05-M

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30 CFR Part 914

Indiana Regulatory Program; Prime Farmland Special Performance Standards

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing receipt of a proposed amendment submitted by Indiana as a modification to the State's regulatory program (hereinafter referred to as the Indiana program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The amendment (Program Amendment Number 91-5) consists of proposed changes to the Indiana Surface Mining Rule provisions concerning prime farmland special performance standards. The amendment is intended to revise the existing prime farmland soil productivity restoration performance standards for revegetation and restoration of soil productivity on prime farmland.

This notice sets forth the times and locations that the Indiana program and the proposed amendment to that program will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed for a public hearing, if one is requested.

DATES: Written comments must be received on or before 4 p.m. on July 29, 1991; if requested, a public hearing on the proposed amendment is scheduled for 1 p.m. on July 22, 1991; and requests to present oral testimony at the hearing must be received on or before 4 p.m. on July 12, 1991.

ADDRESSES: Written comments and requests to testify at the hearing should be directed to Mr. Richard D. Rieke, Director, Indianapolis Field Office, at the address listed below. If a hearing is requested, it will be held at the same address.

Copies of the Indiana program, the amendment, a listing of any scheduled public meetings, and all written comments received in response to this notice will be available for public review at the following locations, during normal business hours, Monday through Friday, excluding holidays:

Office of Surface Mining Reclamation and Enforcement, Indianapolis Field Office, Minton-Capehart Federal Building, 575 North Pennsylvania Street, room 301, Indianapolis, IN 46204. Telephone: (317) 226-6166.

Indiana Department of Natural Resources, 402 West Washington Street, room 295, Indianapolis, IN 46204. Telephone: (317) 232-1547.

Each requester may receive, free of charge, one copy of the proposed amendment by contacting the OSM Indianapolis Field Office.

FOR FURTHER INFORMATION CONTACT: Mr. Richard D. Rieke, Director, Telephone (317) 226-6166; (FTS) 331-6166.

SUPPLEMENTARY INFORMATION:

I. Background on the Indiana Program

On July 29, 1982, the Indiana program was made effective by the conditional approval of the Secretary of the Interior. Information pertinent to the general background on the Indiana program, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Indiana program can be found in the July 26, 1982 **Federal Register** (47 FR 32107). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 914.10, 914.15, and 914.16.

II. Discussion of the Proposed Amendments

By letter dated May 23, 1991, (Administrative Record No. IND-0873), the Indiana Department of Natural Resources (IDNR) submitted a proposed amendment to the Indiana program at Indiana Administrative Code (IAC) 310 IAC 12-5-145 through 310 IAC 12-5-518 The proposed amendment would amend existing 310 IAC 12-5-145, 310 IAC 12-5-146, and 310 IAC 12-5-148 by revising the performance standards for restoring soil productivity. The proposed amendment would repeal 310 IAC 12-5-147. The amendment would also add a new 310 IAC 12-5-148.5 which would create specific standards for

revegetation and restoration of soil productivity on prime farmland.

The full text of the proposed program amendment submitted by Indian is available for public inspection at the addresses listed above. The Director now seeks public comment on whether the proposed amendment is no less effective than the Federal regulations. If approved, the amendment will become part of the Indiana program.

III. Public Comment Procedures

In accordance with provisions of 30 CFR 732.17(h), OSM is now seeking comment on whether the amendment proposed by Indiana satisfies the requirements of 30 CFR 732.15 for the approval of State program amendments. If the amendment is deemed adequate, it will become part of the Indiana program.

Written Comments

Written comments should be specific, pertain only to issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "**DATES**' or at locations other than the Indianapolis Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under "**FOR FURTHER INFORMATION CONTACT**" by the close of business on July 12, 1991. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and who wish to do so will be heard following those scheduled. The hearing will end after all persons who desire to comment have been heard.

Public Meeting

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held.

Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting at the Indianapolis Field Office by contacting the person listed under "**FOR FURTHER INFORMATION CONTACT**." All such meetings will be open to the public and, if possible, notices of meetings will be posted in advance at the locations listed above under "**ADDRESSES**." A summary of the meeting will be included in the Administrative Record.

List of Subjects in 30 CFR Part 914

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 19, 1991.

Carl C. Close,

Assistant Director, Eastern Support Center.

[FR Doc. 91-15258 Filed 6-26-91; 8:45 am]

BILLING CODE 4310-05-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 91-172, RM-7726]

Radio Broadcasting Services; Cushing, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Cavalier Broadcasting proposing the allotment of Channel 245A to Cushing, Texas, as the community's first local FM service. Channel 245A can be allotted to Cushing in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for Channel 245A at Cushing are North Latitude 31-48-42 and West Longitude 94-50-30.

DATES: Comments must be filed on or before August 12, 1991, and reply comments on or before August 27, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Shaun Maher, Esq., Blair, Joyce & Silva, 1825 K Street, NW., Washington, DC 20036 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Pamela Blumenthal, Mass Media Bureau (202) 632-6302.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 91-172, adopted June 13, 1991, and released June 21, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contracts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Andrew J. Rhodes,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91-15249 Filed 6-26-91; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-91, RM-6659]

Radio Broadcasting Services; Billings and Lewistown, MT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; denial of.

SUMMARY: A Notice of Proposed Rule Making was issued in response to a petition filed by Comanche Enterprises, proposing the reallotment of then vacant TV Channel 13 from Lewistown to Billings, Montana, as that community's seventh TV service. *See* 54 FR 18311, April 28, 1989. Since the release of the Notice, an application has been filed for the channel at Lewistown. It is Commission policy not to reallot a channel in which interest has been expressed, absent a sufficient reason, and we find that petitioner has failed to provide sufficient reasons. Accordingly, the proposal in this proceeding to allot Channel 13 to Billings, Montana, by deleting Channel 13 from Lewistown, Montana, is denied.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–91, adopted June 13, 1991, and released June 21, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, 1714 21st Street, NW., Washington, DC 20036 (202) 452–1422.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

Federal Communications Commission.

Andrew J. Rhodes,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91–15248 Filed 6–26–91; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 91–173, RM–7558]

Radio Broadcasting Services; Jackson, WY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Teton Broadcasting Limited Partnership, permittee of Station KZJH–FM, Channel 239C, Jackson, Wyoming, requesting the substitute of Channel 237C for Channel 239C at Jackson and modification of its authorization accordingly, in order to alleviate an intermodulation problem with a two way mobile frequency of the Wyoming Highway Department. Coordinate for Channel 237C at Jackson, Wyoming, are 43–27–40 and 110–45–09.

DATES: Comments must be filed on or before August 12, 1991, and reply comments on or before August 27, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Stuart B. Mitchell, Esq., Mitchell, Boyer & Associates, P.C., 5025–C Backlick Road, Annandale, VA 22003.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 91–173, adopted June 13, 1991, and released June 21, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452–1422, 1714 21st Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Andrew J. Rhodes,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91–15247 Filed 6–26–91; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 91–13; Notice 1]

RIN 2127–AD85

Federal Motor Vehicle Safety Standards

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: Standard No. 123, Motorcycle controls and displays, currently specifies a transverse (crosswise) or longitudinal (lengthwise) axis of rotation for manual fuel shutoff controls. This notice would continue to require that those controls rotate, but proposes to amend the standard to remove the restriction on the orientation of the axis of rotation. It would also continue to require that the control positions (on, off, and reserve) be separated by 90 degrees of rotation, but proposes to eliminate other current restrictions on the location of those control positions. This action, taken in response to a grant of a petition for rulemaking, would relieve current design restrictions which have been tentatively determined by the agency to be no longer necessary for motor vehicle safety.

DATES: Comments on this proposal must be received by NHTSA no later than August 12, 1991.

If adopted in a final rule, the amendment would take effect 30 days after publication in the **Federal Register.**

ADDRESSES: Comments should refer to Docket No. 91–13; Notice 1, and be submitted to: Docket Section, room 5109, NHTSA, 400 Seventh Street, SW, Washington, DC 20590. The docket section is open from 9:30 a.m. to 4 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Jere Medlin, Crash Avoidance Division, NRM–11, room 5307, NHTSA, 400 Seventh Street SW, Washington, DC 20590 (202–366–5276).

SUPPLEMENTARY INFORMATION:

Background

Standard No. 123, Motorcycle controls and displays (49 CFR 571.123), specifies requirements for the location, operation, identification, and illumination of motorcycle controls and displays, and requirements for motorcycle stands and footrests. Table 1 of Standard No. 123 currently specifies that manual fuel shutoff controls, when provided, have the following identification and modes of operation:

"On"—Control downward; "Off"—Control forward (if control rotates around a transverse axis) or Horizontal—Left or Right (if control rotates around a longitudinal axis); "Reserve On"—(if provided) Control upward.

Thus, the standard requires that the manual fuel shutoff control rotate around a transverse or longitudinal axis.

The current specification is the result of a final rule published on September 7, 1984 (49 FR 35380). The agency determined that motor vehicle safety was best served by retaining the standardization of control position relationships while allowing the manufacturer to place the control so that it may operate in its required positions around either a longitudinal or transverse axis. Although NHTSA stated that it found merit in a comment received in response to the notice of proposed rulemaking (48 FR 40286) that favored allowing rotation around any axis, the agency declined to consider comments that went beyond the rule as proposed.

On November 14, 1990, the Motorcycle Industry Council (MIC) petitioned the

agency to amend Standard No. 123 to permit the manual fuel shutoff valve controls to rotate around any axis, provided that the relationship of the control positions (on, off, reserve) to each other remains the same as the current standard. MIC stated that the mechanical components on many of today's motorcycles are enclosed in a streamlined body. Since few parts of streamlined bodies follow the longitudinal or transverse axes of the motorcycle, MIC claimed that "special provisions" must be made in the design of the body in order to comply with the standard. This in turn severely restricts freedom of design, MIC asserted. On March 1, 1991, NHTSA granted MIC's petition. This notice is in response to the grant of that petition.

Proposed Rule

NHTSA has tentatively concluded that there is no safety-related justification for restricting the design of manual fuel shutoff controls to a longitudinal or transverse axis. Even though the axis orientation of the manual fuel shutoff control is currently standardized, there is no location requirement for the control itself, or even that the control be provided. Also, the standard does not regulate non-manual valves. Nor does it specify that there be adequate access of the hand to the control. Thus, there does not appear to be any justification for regulating manual fuel shutoff control axis orientation.

However, the agency has tentatively concluded that the requirements for standardization of the relationship between the control positions (on, off, and reserve) are a necessary crash avoidance requirement. Standardization of the control positions enables the operator to use the control without taking his or her eyes off the road.

MIC suggested that the manual fuel shutoff control have the following modes of operation: "Off" would be located midway between "On" and "Reserve"; and "On" located 180 degrees from "Reserve." Although MIC's suggestion recognizes the importance of standardization of the relative position of the control settings, its workability is premised on the existence of a "Reserve" setting. However, such a setting may not be provided since provision of that setting is not required by the standard. If there is no "Reserve" setting, MIC's suggested amendment would not adequately regulate the relative positions of the "On" and "Off" positions. Although the agency is not aware of a shutoff control which lacks a "Reserve" position, the installation of such a control is not required under the standard.

Therefore, the agency is proposing a standardized control position requirement that is not dependent upon the existence of a "Reserve" setting.

Effective Date

Because the proposed amendment relieves restrictions and is optional in nature, the agency has tentatively determined that there is good cause shown that an effective date earlier than 180 days after issuance is in the public interest, and proposes that the effective date be 30 days after publication in the Federal Register.

Rulemaking Analyses and Notices

Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

The agency has analyzed the economic and other effects of this proposal and determined that they are neither "major" within the meaning of Executive Order 12291 nor "significant" within the meaning of the Department of Transportation regulatory policies and procedures. This proposed amendment would impose no additional requirements but would permit manufacturers greater design flexibility in locating the manual fuel shutoff control. The agency has determined that the economic effects of the proposed amendments are so minimal that a full regulatory evaluation is not required.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, NHTSA has evaluated the effects of this proposed action on small entities. Based upon this evaluation, I certify that the proposed amendment would not have a significant economic impact on a substantial number of small entities. As stated above, the proposed action would allow additional design flexibility. Manufacturers of motorcycles, who would be affected by the proposed amendment, are generally not considered small businesses for the purposes of the Regulatory Flexibility Act. Further, small organizations and governmental jurisdictions would not be significantly affected since the price of new motorcycles would be minimally impacted. Accordingly, no regulatory flexibility analysis has been prepared.

Executive Order 12612 (Federalism)

This rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612. The agency has determined that the proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

National Environmental Policy Act

The agency has also analyzed this rule for the purpose of the National Environmental Policy Act, and determined that it would not have any significant impact on the quality of the human environment nor would it require any increase in materials required in the manufacture of motorcycles.

Procedures for Filing Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon

receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, tires.

In consideration of the foregoing, NHTSA proposes to amend 49 CFR part 571 as follows:

PART 571—[AMENDED]

1. The authority citation for part 571 would continue to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

§ 571.123 [Amended]

2. The operation requirements for the manual fuel shutoff control (item 7) in column 3 of table 1 of Standard No. 123 would be revised to read as follows:

Rotate to operate. "On" and "Off" are separated by 90 degrees of rotation. "Off" and "Reserve" (if provided) are separated by 90 degrees of rotation. Sequence order: "On"-"Off"-"Reserve".

* * * * *

Issued on: June 21, 1991.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 91-15286 Filed 6-26-91; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Finding on a Petition To List the Sonoran Desert Tortoise as Threatened or Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of petition finding.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces a 12-month finding on a petition to amend the List of Endangered and Threatened Wildlife and Plants. After review of all available scientific and commercial information available on the Sonoran population of the desert tortoise (*Gopherus* (=*Exerobates*) *agassizii*), the Service has determined that listing the Sonoran desert tortoise as threatened or endangered is not warranted at this time.

DATES: The finding announced in this notice was made on June 20, 1991. Comments and information should be submitted until further notice.

ADDRESSES: Information, comments, or questions should be submitted to the Field Supervisor, U.S. Fish and Wildlife Service, Ecological Services Field Office, 3616 West Thomas Road, suite 6, Phoenix, Arizona 85019. The petition, findings, supporting data, and comments are available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Sam Spiller, Field Supervisor at the above address or telephone 602/379-4720 or FTS 261-4720.

SUPPLEMENTARY INFORMATION:

Background

On September 14, 1984, the Service received a petition to list the desert tortoise (*Gopherus agassizii*) as an endangered species throughout the remainder of its range in Arizona, California, and Nevada (the Beaver Dam Slope population of the desert tortoise in Utah was listed as threatened with critical habitat in 1980). The desert tortoise also occurs in Sonora and Sinaloa, Mexico.

A 90-day finding that the petition presented substantial information indicating that the requested action may be warranted was made on December 14, 1984, and published on April 2, 1985 (50 FR 13054). On December 5, 1985, the Service published a 12-month finding (50 FR 49863) that the petition to list the desert tortoise throughout its range was warranted, but precluded by other pending proposals of higher priority. On July 1, 1987, after review of additional data, the Service again published a finding of warranted but precluded in the **Federal Register** (52 FR 24485).

On May 31, 1989, substantial new information on population declines due to Upper Respiratory Disease Syndrome (URDS) was provided, and the Service was petitioned to list the desert tortoise as endangered throughout its range in the United States. As a result of the new information, the Service listed the Mojave population as endangered by emergency rule on August 4, 1989 (54 FR 32326). The Mojave population was designated in the rule as all tortoises north and west of the Colorado River (California, Nevada, the Arizona Strip, and Utah). The emergency rule provided protection under the ESA for 240 days, until April 2, 1990. The Service did not list the Sonoran population (occurring south and east of the Colorado River) under the emergency provisions of the ESA for the following reasons:

1. Historically, desert tortoises in the Sonoran population occur in numerous distinct, small groups in a distribution pattern described as patchy or disjunct and inhabiting steep-sided canyons.

2. The very patchiness of the distribution in the Sonoran population leads the Service to conclude that the URDS affecting other subpopulations will not likely reach the epidemic proportions that it has in locations like the Desert Tortoise Natural Area in California. Although a few instances of respiratory disease have been documented in the Sonoran population, it appears that respiratory disease is: (a) Usually present in tortoise populations to varying degrees, (b) has not shown any evidence of becoming pandemic, (c) has not been shown to be URDS, and (d) is currently being addressed by the Service and the Arizona Game and Fish Department (AGFD), who will continue to gather and evaluate data.

On October 13, 1989, the Service published a proposal (54 FR 42270) to list the Mojave population of the desert tortoise as an endangered species under regular listing procedures.

The reasons for not proposing the Sonoran population as endangered at that time were the same as applied at the time of the emergency listing, plus the fact that the habitat in the Sonoran Desert is less subject to disturbance than is the more level terrain occupied by tortoises in the Mojave Desert. Additionally, the proposed rule stated that a report on the results of studies undertaken on the Sonoran population in 1990 would be available in January 1991. The report would contain information needed to determine whether the Sonoran population of the desert tortoise warranted listing. All available information on distribution, abundance, and threats would be summarized. This summary would include review of published and unpublished information and preparation of maps overlaying tortoise distribution with projected land use patterns. Results of field work to determine population status and trends, with emphasis on reproduction, disease, and mortality, would be available by revisting previously sampled sites.

On April 2, 1990, the Service listed the Mojave population of the desert tortoise as a threatened species (55 FR 12178). The Service stated that it would continue to evaluate the status of the Sonoran population and, in settlement of litigation, agreed that it would determine either that a proposal to list the Sonoran population of desert tortoises as an endangered or threatened species was warranted, as provided in section 4(b)(3)(B)(ii) or the Act, 16 U.S.C. 1533(b)(e)(B)(ii), or that such action is not warranted, as

provided in section 4(b)(3)(B)(i) of the Act 16 U.S.C. 1533 (b)(3)(B)(i). The October 16, 1990, petition finding stated that the Sonoran Desert population of the desert tortoise would be addressed in a later and separate administrative finding.

Information already in Service files and that obtained in 1990 have been assembled into a document entitled "Status Summary of the Desert Tortoise in the Sonoran Desert." All these best available data show neither a significant decrease in the species' range nor a decline in abundance over a significant portion of the range.

The five factors for listing prescribed by the Act were evaluated in order to make a determination in response to the petition.

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

As currently assessed by the AGFD, there are approximately 27,623 km^2 of potential tortoise habitat in the Sonoran Desert in Arizona. It is projected that approximately 10,061 km^2 (36 percent) of all tortoise habitat in the Sonoran Desert in Arizona may receive adverse impacts, directly or indirectly, over the next 25 years. Conversely, 64 percent of all tortoise habitat in Arizona is not expected to receive impacts at all over the next 25 years. The levels of the impacts for land uses thought to be potential threats to tortoises and/or their habitat have not been fully assessed, and may range from non-existent to exceedingly severe. The magnitude and extent of the impacts often depends upon land ownership and associated management policies, but overall, will ultimately be determined by Arizona's economic situation.

From a land ownership perspective, Federal and State land management agencies and wildlife agencies have the greatest potential for affecting Sonoran tortoise populations in Arizona. Approximately 48 percent of the Sonoran habitat occupied by tortoises in Arizona is under management jurisdiction of the Bureau of Land Management (BLM) and Forest Service (FS) which manage the majority of their lands for multiple use. These uses may include oil, gas, and mineral exploration; livestock grazing; recreation; and wildlife management. The Service and various Federal, State, and local parks and recreation-oriented agencies manage 9 percent of the habitat in the aggregate. The State of Arizona owns 16 percent of the occupied habitat, and another 12 percent is in private ownership. Both State and private lands are, for the most part, managed for economic benefit. Indian reservations and the military manage 16 percent of the tortoise habitat. There are currently no data by which to determine the quality of habitat or density of tortoise populations managed by each entity.

Although most Federal agencies are currently managing the desert tortoise as a candidate category 2 species, the BLM, National Park Service (NPS), and the Service have specific management policies that provide increased levels of protection for the desert tortoise. The BLM, which manages approximatley 41 percent of the desert tortoise habitat in Arizona, is operating under the "Desert Tortoise Habitat Management on Public Lands: A Range-wide Plan" and the "Strategy for Desert Tortoise Habitat Management on Public Lands in Arizona." These documents provide objectives and management actions for the conservation of desert tortoises on BLM lands.The Service and NPS have management policies for the preservation and protection of natural ecosystems. Additionally, in November of 1990, Congress passed the Arizona Desert Wilderness Act (Act) of 1990. On BLM land, the Act designates 30 wilderness areas containing approximately 2,805 km^2 of desert tortoise habitat. The act also provides for approximately 1,435 km^2 of Wilderness containing desert tortoise habitat on four National Wildlife Refuges in Arizona.

From a historical perspective, of over 200 townships reviewed by AGFD, there were only four townships in Arizona where Sonoran tortoise occurrence has not been re-confirmed since 1965. These data indicate that the overall range of the tortoise in Arizona has not been reduced in recent times. However, some populations within the range in metropolitan areas have been severely affected or perhaps eliminated. It appears that the tortoise currently occupies virtually all potential habitat in Arizona.

Desert tortoise populations in the Sonoran Desert occupy discrete mountain ranges. Valleys between these mountains are and have been historically unoccupied by desert tortoises, except for dispersal and movement among preferred habitats. As the human population of Arizona has expanded, the tortoise populations within the mountain ranges may have become further isolated due to agriculture, urbanization, construction of roadways, utility corridors, canals, grazing, and off-highway vehicle activity. These activities have resulted in local changes to vegetative communities, especially the reduction in diversity and cover of shrubs and perennial grasses. These changes have created openings and barren areas in some desert landscapes and may have degraded the quality of habitat for dispersing tortoises in some areas. The effects on dispersal have not been examined.

The impacts of off-highway vehicles (OHV's) on tortoises are well established for the Mojave Desert. In the Mojave Desert, OHV's compact the soil, crush tortoises, crush dens and pallets, and reduce plant abundance, cover, and productivity. Although some OHV traffic occurs year-round in desert tortoise habitat in Arizona, no quantifiable data exist on amount of impact caused by OHV's. Most OHV use occurs in more navigable areas, away from the best tortoise habitat. Sonoran habitats, especially upland shelter sites, are generally less subject to compaction because they are rocky. However, OHV use may affect desert washes where tortoise travel routes often occur and tortoise burrows occasionally are found. Very little OHV impact to tortoises or their habitat occurs in Mexico.

The impacts of livestock grazing to Sonoran tortoises are not well known but seem to be different than those that have been documented in the Mojave Desert. In general, the sites most heavily grazed by livestock in Arizona (i.e., flatlands) do not have tortoise populations and livestock rarely extend up the rocky slopes preferred by Sonoran Tortoises. In the Mojave population, which occurs on more level ground, there has been considerable concern about grazer/tortoise interaction and/or competition. It is unknown whether tortoises and livestock compete for forage or have simple dietary overlaps.

Mexico contains about a third of the desert tortoise's total range and perhaps more than 50 percent of the Sonoran population's range. It appears that potential threats to the tortoise in Mexico may be less severe than in the U.S. due to economics: Slower urban growth and the lack of potable water throughout much of the Sonoran Desert reduces the human-related impacts from development and proximity to habitation. Other Mexican impacts of unknown magnitude to tortoise populations occur from illegal take for pets, consumption, etc., and from habitat alterations due to livestock grazing, including the introduction and propagation of non-native grasses such as buffle grass (*Cenchrus* sp.).

Although there are no data to support or refute any inferences of the relative security of desert tortoise populations in Mexico, a major threat from urban

growth is not immediate. Some of the highest densities of tortoise known in the Sonoran Desert occur on Isla Tiburòn in the Sea of Cortez. This island is now protected as a preserve by the Mexican government.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

It is currently estimated that over 100,000 tortoises exist in captivity in the Sonoran and Mojave deserts. Existing tortoise adoption programs, which distribute surplus backyard tortoises and those brought in from permanent habitat modification projects, probably meet most of the demand for pets and for scientific and educational purposes.

Commercial use of tortoises does not appear to be widespread in Arizona, probably because pet store owners are more aware of the pertinent State laws than is the general public. AGFD investigations of the black market pet trade over the past several years have revealed very little tortoise activity.

Human predation of desert tortoises occurred historically and still continues today in some areas. In Mexico, consumption of tortoise appears to be a threat to some tortoise populations. Not only do isolated ranches hunt tortoises for inexpensive meat, but there are reports of tortoise hunters, "tortugueros", who seek out populations and hunt them until they are depleted. Although consumption of tortoises appears to be a more-or-less common practice in rural Mexico, it most likely occurs only in isolated events in the United States.

C. Disease or Predation

URDS is the principal disease threat to Mojave tortoises, where it has reached epidemic proportions in some populations. Although URDS-like signs have been diagnosed from several Arizona localities, there are no veterinary diagnoses which confirm this syndrome in Arizona. The only population of tortoises exhibiting a suite of characteristic signs occurs in the Black Mountains near Bullhead City. Signs of a respiratory disease have been observed in localities near Tucson and in the San Pedro River Valley. There have been no precipitous population declines from URDS in the Sonoran population, as were documented in Mojave populations.

D. The Inadequacy of Existing Regulatory Mechanisms

The State of Arizona currently has no specific law for the protection of endangered species or their habitat and no State environmental policy legislation. The AGFD includes the desert tortoise on its list of Threatened Native Wildlife in Arizona (1988), as a candidate for State endangered or threatened status. This designation has no regulatory mandate vested in law. However, on January 1, 1988, the Arizona Game and Fish Commission prohibited the take of desert tortoises from the wild. The Commission also prohibits the sale of tortoises and the export of tortoises from the State.

Illegal vandalistic shooting and intentional killing of tortoises have been documented in Arizona. The impact of these activities is unknown, but is probably greater to populations near urban centers.

Because state laws do not apply on Indian reservations, prohibition of take can only be enforced through the Lacey Act when a tortoise is taken across reservation boundaries. The Lacey Act also regulates the transport of tortoises across state lines. *Gopherus* spp. are listed in appendix II of the Convention on International Trade in Endangered Species (CITES), which requires a Federal export permit when taking a tortoise out of the United States. Because Mexico has not signed CITES, no CITES export permit is required to transport a tortoise from Mexico to the United States, but a Mexican export permit from the Secretaria de Desarrollo Urbano y Ecologia (SEDUE) is required.

For purposes of regulating commerce and taking of federally listed species, tortoises from the Sonoran Desert found outside their natural range in Arizona (south and east of the Colorado River) and Mexico are considered a threatened species due to similarity of appearance to Mojave tortoises.

In Mexico, the desert tortoise is categorized as endangered in its natural environment. As of August 2, 1985, SEDUE prohibited the take of tortoises from the wild. Regulations state that it is unlawful to hunt, capture, possess, harass, transport, sell, or purchase specimens of or goods made from the desert tortoise. A special permit is required from SEDUE to capture or export the desert tortoise.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

No such factors have been documented or recognized at this time.

After review of all available scientific and commercial information available on the Sonoran population of the desert tortoise, the Service has determined that listing the Sonoran desert tortoise as threatened or endangered is not warranted at this time. This decision is based on scientific information contained in the petition and otherwise available to the Service at the time the 12-month finding was made.

Author

The primary author of this notice is Dr. Richard A. Byles, Endangered Species Division, Fish and Wildlife Enhancement, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103–1306 (505/766–3972 or FTS 474–3972).

Authority

The authority for this action is the Endangered Species Act (16 U.S.C. 1531–1543); unless otherwise noted.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Dated: June 20, 1991.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 91–15241 Filed 6–26–91; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 56, No. 124
Thursday, June 27, 1991

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

June 21, 1991.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, room 404–W Admin. Bldg., Washington, DC 20250, (202) 447–2118.

Extension

• *Agricultural Marketing Service*

Papayas Grown in Hawaii-Marketing Order No. 928.
Recordkeeping; On occasion; Weekly; Monthly; Annually.
Farms; Businesses or other for-profit; Small businesses or organizations; 1,275 responses; 1,082 hours.
Gary Rasmussen (202) 475–3918.

New Collection

• *Rural Electrification Administration*

Rural Economic Development Loan and Grant Program—Addendum 1.
On occasion.
Businesses of other for-profit; Non-profit institutions; Small businesses or organizations; 580 responses; 850 hours.
Paul Marsden (202) 245–5072.

• *Federal Crop Insurance Corporation*

Production and Yield Report.
FCI–19–A (APH).
On occasion.
Individuals or households; Farms; 200,000 responses; 50,000 hours.
Bonnie L. Hart (202) 245–5046.

• *Federal Crop Insurance Corporation*

Pre-Acceptance Perennial Crop Inspection Report.
FCI–12–P.
On occasion.
Individuals or households; Farms; 2,200 responses; 2,200 hours.
Bonnie L. Hart (202) 245–5046.

• *Federal Crop Insurance Corporation*

Power of Attorney.
FCI–532.
On occasion.
Individuals or households; Farms; 500 responses; 125 hours.
Bonnie L. Hart (202) 245–5046.

• *Federal Crop Insurance Corporation*

Underwriting Questionnaire (Container Stock Only); Nursery Container Report; and Nursery Crop Insurnace Inventory Summary.
FCI–544, FCI–545, and FCI–546.
On occasion.
Individuals or households; Farms; 150 responses; 625 hours.
Bonnie L. Hart (202) 245–5046.

• *Federal Crop Insurance Corporation*

Actual Production History Review Report.
FCI–19–A (APH) Review Form.
On occasion.
Individuals or households; Farms; 400 responses; 400 hours.
Bonnie L. Hart (202) 245–5046.

• *Federal Crop Insurance Corporation*

Raisins—Notice of Damage and Inspection; Supplement—Tonnage.
Report; and Reconditioning Pool, Production-to-Count.
FCI–63–A, FCI–819, FCI–551.
On occasion.
Individuals or households; Farms; 500 responses; 200 hours.
Bonnie L. Hart (202) 245–5046.

• *Federal Crop Insurance Corporation*

Certification Form.
FCI–73.
On occasion.
Individuals or households; Farms; 1,000 responses; 2,000 hours.
Bonnie L. Hart (202) 245–5046.

Reinstatement

• *Agricultural Stabilization and Conservation Service*

7 CFR part 1421 and 1434—General Regulations Governing Price Support for 1978 and Subsequent Crop Years.
CCC—64, 156, 601, 614, 638, 665, 666, 666(Honey), 662, 677, 678–2, 678–3, 679, 681, 681–1, 685, 686, 687–1, 691, 697, 699, 806, 807, 906, KC–350, UCC–1 & 3.
On occasion; Annually.
Farms; 2,106,050 responses; 466,083 hours.
Alex King (202) 382–9886.

Larry K. Roberson,
Deputy Departmental Clearance Officer.

[FR Doc. 91–15335 Filed 6–26–91; 8:45 am]
BILLING CODE 3410–01–M

Forest Service

Tolan Creek Timber Sale; Bitterroot National Forest, Ravalli County, MT; Intent To Prepare an Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The notice is hereby given that the Forest Service is gathering information in order to prepare an Environmental Impact Statement (EIS) for a proposal to harvest timber in the Tolan Creek drainage. The drainage is located approximately 35 air miles southwest of Hamilton, Montana, on the Sula Ranger District, Bitterroot National Forest, Ravalli County, Montana, in T1N and T1S, R18W, Principal Meridian Montana.

DATES: A public open house will be held in Hamilton, Montana, on July 25, 1991, and a public field review will give interested individuals an opportunity to visit the Tolan Creek area with Forest Service personnel on July 27, 1991. The

meeting dates will be announced in local newspapers and through individual contact with interested local publics. Written comments concerning the scope of the analysis must be received on or before August 12, 1991.

ADDRESSES: Send written comments and suggestions to District Ranger, Sula Ranger District, Sula, Montana 59871.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and EIS should be directed to Stuart Lovejoy, Resource Coordinator, Sula Ranger District, Phone: (406) 821–3201.

SUPPLEMENTARY INFORMATION: These management activities would be administered by the Sula Ranger District of the Bitterroot National Forest in Ravalli County, Montana. This EIS will tier to the Bitterroot National Forest Plan of September 1987 (Forest Plan) which provides the overall guidance (goals, objectives, standards and guidelines, and management area direction) in achieving the desired future condition for all areas of the Bitterroot National Forest. The purpose and goals for the proposed action are:

(1) To maintain or improve forest health, diversity and the future productive potential of the Tolan Creek area.

(2) To reduce the potential for mountain pine beetle infestation and large stand-replacement fires in the Tolan Creek drainage.

(3) To maintain or improve habitat and security for elk.

(4) To supply raw materials to the local timber market.

The process in preparing the Draft EIS will include:

1. Identification of potential issues.
2. Identification of issues to be analyzed in depth.
3. Elimination of insignificant issues or those which have been covered by a relevant previous environmental analysis.
4. Identification of reasonable alternatives.
5. Identification of potential environmental effects of the alternatives.
6. Determination of potential cooperating agencies and task assignments.

The agency invites written comments and suggestions on the issues and management opportunities in the area being analyzed. For most effective use, comments should be sent to the agency within 45 days from the date of this publication in the **Federal Register**. A public meeting will be held in Hamilton, Montana on July 25, 1991, to obtain public input and provide additional information concerning planned management activities. On July 27, 1991, a public field review will give interested individuals an opportunity to visit the Tolan Creek drainage with Forest Service Personnel and to discuss proposed management activities.

The Forest Plan provides the overall guidance for management activities within the potentially affected area through its goals, objectives, standards and guidelines, and management area direction. The potentially affected area is composed of the following management areas:

Management Area 1: Consists of lands designated for timber and forage production. The management goal is to emphasize timber management, livestock and big-game forage production and assure a minimum level of visual quality, old growth, and habitat for other wildlife species. Extensive vegetation manipulation with associated new road construction may occur in this management area within guidelines provided by the Bitterroot Forest Plan.

Management Area 2: Consists of lands designated primarily for winter range habitat for elk. The goal is to optimize winter range habitat using timber and other vegetation management practices while providing moderate levels of visual quality, old-growth habitat for other wildlife species, and livestock forage. Vegetation manipulation and road construction may occur within guidelines set by wildlife objectives.

Management Area 3a: Consists of lands designated primarily for management of visual quality. The goal is to maintain the partial retention visual quality objective and manage timber. Roaded dispersed recreation activities, old growth, and big-game cover are emphasized. Vegetation manipulation with associated road construction may occur provided activities are subordinate to the natural landscape.

Management Area 3b: Consists of lands designated primarily for fisheries riparian area management. The goal is to manage riparian areas to maintain flora, fauna, water quality and water-related recreation activities.

Emphasis is placed upon water and soil protection, dispersed recreation use, visual quality, and old growth. Only limited vegetation manipulation may occur in this management area.

Management Area 8a: Includes lands designated to be managed at minimum level for elk security, old growth, and habitat diversity. Existing uses and facilities are to be maintained.

A range of alternatives will be considered. One of these will be the "no-action" alternative, in which all management activities would be deferred. Other alternatives will examine vegetation and woody fuel manipulation using various methods and intensities to meet resources objectives. Some alternatives may consider road construction as a means to facilitate management activities and accomplish resource objectives.

The Forest Service will analyze and document the direct, indirect, and cumulative environmental effects of the alternatives. This will include an analysis of the effects of alternatives on the roadless character of the area affected. In addition, this EIS will disclose the analysis of site specific mitigation measures and their effectiveness.

Public participation will be important during this analysis. People may visit with Forest Service officials at any time during the analysis period and prior to the decision; however, two periods of time are identified for the receipt of comments on the analysis. The two public comment periods are during the scoping process and during the Draft EIS review period (approximately February or March, 1992).

During the scoping process, the Forest Service is seeking information and comments from Federal, State and local agencies, Indian tribes, and other organizations or individuals interested in or affected by the proposed action.

The draft environmental impact statement (DEIS) is expected to be available for public review in February or March, 1992. After a 45-day public comment period, the comments received will be analyzed and considered by the Forest Service while preparing the final environmental impact statement (FEIS). The FEIS is scheduled to be completed by June, 1992. In the FEIS, the Forest Service will respond to the comments received. The District Ranger of the Sula Ranger District, Bitterroot National Forest, is the responsible official for this EIS and will consider the comments and responses, environmental consequences discussed in the FEIS, and applicable laws, regulations, and policies when making a decision regarding this proposal. The decision, and reasons for the decision, will be documented in the Record of Decision.

The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact

statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. (*Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978).) Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. (*Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334 (E.D. Wis. 1980).) Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement. To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statment or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.)

The responsible official is David M. Campbell, District Ranger of the Sula Ranger District, Bitterroot National Forest.

Dated: June 3, 1991.

David M. Campbell,

District Ranger, Sula Ranger District, Bitterroot National Forest.

[FR Doc. 91-15347 Filed 6-26-91; 8:45 am]

BILLING CODE 3410-11-M

Oil and Gas Leasing; Carbon, Park, Stillwater, and Sweet Grass Counties, MT; Intent To Prepare an Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare environmental impact statement.

SUMMARY: The USDA, Forest Service, will prepare an environmental impact statement (EIS) to disclose the environmental effects of oil and gas leasing and subsequent reasonably foreseeable exploration, development, and production. The USDI—Bureau of Land Management will cooperatively participate in the preparation of this document. The lands involved include portions of the Beartooth Ranger District, Custer National Forest.

The Custer National Forest Land and Resources Management Plan and Record of Decision (1987) identified lands on the Forest that are administratively available for oil and gas leasing. This EIS, consistent with the Federal Onshore Oil and Gas Leasing Reform Act of 1987, will reaffirm the administratively available decision, identify specific lands the BLM may offer for lease, and develop site-specific lease stipulations designated to reduce impacts to surface resource values. This analysis will evaluate reasonably foreseeable impacts of post-leasing effects. The analysis will tier from the Forest Plan EIS.

DATES: Public meetings will be held to identify issues to be addressed in this analysis. Meetings are planned in Columbus (July 9), Red Lodge (July 10), and Billings, Montana (July 11). Locations will be announced in local newspapers and in scoping documents sent to those on mailing list.

Written comments concerning the scope of the analysis must be received on or before August 26, 1991 or as listed in information mailed to the public.

ADDRESSES: Written comments concerning the analysis should be sent to Curtis W. Bates, Forest Supervisor, Custer National Forest, PO Box 2556, Billings, Montana 59103.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and EIS should be directed to David Hatfield, Interdisciplinary Team Leader, Beartooth Ranger District. Phone (406) 446-2103

SUPPLEMENTARY INFORMATION:

Purpose and Objectives

This analysis will address oil and gas leasing and the site specific application of lease stipulations on the entire Beartooth Ranger District except for the Pryor Mountains and the Absaroka-Beartooth Wilderness. The decision to be made is whether or not to issue oil and gas leases, and if so, what stipulations are necessary to reduce impacts to surface resource values.

The Bureau of Land Management is responsible for the actual issuance of these leases, but the Forest Service, as the suface management agency must "consent to" the issuance of a lease on Acquired lands under the Mineral Leasing Act of 1947, or "not object to" leasing of Public Domain lands under the Federal Onshore Oil and Gas Leasing Reform Act of 1987. The decision "to consent or not object to" leasing can be conditioned by requiring stipulations attached to the leases.

Analysis Area

The study area will include approximately 183,000 non-wilderness acres reaching from the Wyoming border to the boundary with the Gallatin National Forest north and west of the Meyers Creek Guard Station. Approximately 46,000 acres are currently leased within the study area.

Lands involved in this analysis include portions of the following Townships: T3S—R14–15E; T4S—R14–15E; T5S—R13–16E; T6S—R15–18E; T7S—R15–20E; T8S—R14–15E & R18–20E; T9S—R14–20E.

Forest Plan Standards

The environmental impact statement (EIS) will address the environmental effects of leasing in the various management areas defined by the Custer National Forest Land and Resource Management Plan that was approved June 19, 1987. The scope of the EIS will be confined to issues of oil and gas leasing and will not address the land allocations that were made in the Forest Plan.

Management Areas within the study area include portions of B,C,D,E,F,G,H,M,P,R, and T. Generalized management goals for each management area are as follows:

MA B—To provide for continuation of livestock grazing, implementation of intensive range management systems and the facilitation of minerals and energy development with consideration of other resource needs. In areas not considered key for wildlife, adverse impacts to the wildlife habitat will be mitigated where feasible, but not to the exclusion of range and mineral/energy management and development activities. In key wildlife areas, the habitat may not be adversely impacted from development activities.

MA C—Manage key wildlife habitat areas for the optimum quality and diversity that the land can offer. Other resource activities will be modified to maintain or improve the existing habitat. Key areas for the Beartooth District include the Line Creek Plateau, Meyers Creek, Swamp Creek, and Picket Pin for elk; Palisades for moose; Stillwater for big horn sheep; and Slough Creek for grizzly bear.

MA D—Maintain or improve long-term diversity and quality of habitat for elk, bighorn sheep, black bear, and moose as well as accommodate oil and

gas operations, livestock grazing, and timber harvest.

MA E—Encourage and facilitate the exploration, development, and production of mineral and energy resources. Other resources will be considered and impacts will be mitigated to the extent possible through standard operating procedures, and, on a limited basis, through special lease stipulations necessary to manage key surface resources. Energy/mineral development will not be precluded by these resource concerns within legal constraints.

MA F—Provide a spectrum of recreation opportunities and settings in and around developed sites and the access corridors to the sites in the categories of semiprimitive motorized, semiprimitive non-motorized, and roaded natural appearing and rural.

MA G—Manage these areas for the maintenance and improvement of a healthy diverse forest and as a source of wood products for dependent local markets. Silvicultural systems will consider other resource needs such as wildlife habitat, visual impacts, and livestock management.

MA H—Retain the wilderness characteristics of these areas until a Congressional decision is made regarding wilderness classification.

MA M—Protect from conflicting uses in order to provide healthy, self-perpetuating plant and water communities that will have optimum diversity and density of understory and overstory vegetation in riparian areas.

MA P—Provide adequate facilities for forest administration.

MA R—Protect and maintain high quality water for public domestic use.

MA T—Provide facilities, information, and interpretation to Forest visitors regarding the human and natural history of the landscape seen from the Beartooth highway.

Decisions based on this analysis will not address possible future site-specific proposals for exploration or development of the oil and gas resources. When such a proposal is submitted that involves surface disturbance, a separate NEPA analysis will be conducted.

Public Participation, Issues, and Alternatives

Federal, state, and local agencies, potential developers, and other individuals or organizations interested in or affected by the decision are invited to participate in the scoping process. Input to identify issues to be addressed in this analysis will be gathered from the public through mailing of scoping information to all known interested publics and through public meetings.

Based on comments made by the public on past proposals or actions the following list of preliminary issues to be addressed has been identified. This list will be verified, expanded, or modified based on input from the public.

1. The effects of leasing and subsequent actions on critical terrestrial habitat of plants and animals.
2. The effects of leasing and subsequent actions on local and regional economies and social frameworks.
3. The effect of leasing and subsequent actions on the quality of the scenic and natural setting.
4. The effect of leasing and subsequent actions on water quality and aquatic habitat.

Alternatives to be considered in this analysis will depend on the comments received during scoping, but the following have been identified as preliminary alternatives:

(1) No Action (no leasing at this time).

(2) Issue leases with stipulations identified as standards and guidelines in the Forest Plan.

(3) Issue leases with standard lease terms (no additional stipulations).

Release of Draft and Final EIS

The draft environmental impact statement (DEIS) is scheduled for release to the public for comment on or about April 30, 1992 and the final EIS filed on or about December 1, 1992. The comment period on the draft environment impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register.**

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power* v. *NRDC, 435 U.S. 519, 553 (1978).* Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final enviromental impact statement may be waived or dismissed by the courts. *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objection are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering tentative issues and proposed alternatives it is helpful if comments are as specific as possible. (Reviewers may wish to Refer to the Council on Envionmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points).

The responsible official for this EIS and decision is John W. Mumma, Regional Forester, USDA Forest Service, 200 East Broadway, P.O. Box 7669, Missoula, Montana 59807.

Dated: June 6, 1991.

John W. Mumma,

Regional Forester.

[FR Doc. 91-15338 Filed 6-26-91; 8:45 am]

BILLING CODE 3410-11-M

Oil and Gas Leasing; Custer National Forest; Little Missouri National Grasslands: Billings, Golden Valley and Slope Counties, ND; Cedar River National Grasslands: Sioux and Grant Counties, ND; Grand River National Grasslands: Corson and Perkins Counties, SD; Custer National Forest: Hardin County, SD; Intent To Prepare an Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare environmental statement.

SUMMARY: The USDA, Forest Service, will prepare an environmental impact statement (EIS) to disclose the environmental effects of oil and gas leasing and reasonably foreseeable actions resulting from subsequent exploration and development, as well as interconnected actions on a portion of the Little Missouri National Grassland, involving the Medora Ranger District; the Cedar River and Grand River National Grasslands involving the Grand River Ranger District; and a portion of the Sioux Ranger District, Custer National Forest. The USDI—Bureau of Land Management will cooperatively participate in the preparation of this document.

The Custer National Forest Management Plan and Record of Decision (1987) identified which lands on the Forest are available for oil and gas leasing. This EIS, consistent with the Federal Onshore Oil and Gas Leasing Reform Act of 1987, will reaffirm the administratively available decision,

identify specific lands the BLM may offer for lease, and develop site-specific lease stipulations designed to reduce impacts to surface resource values. This analysis will evaluate reasonably foreseeable impacts of post-leasing activity. The analysis will tier to the Forest Plan EIS.

DATES: Comments concerning the scoping to identify issues should be received in writing by July 31, 1991.

ADDRESSES: Written comments concerning the analysis should be sent to Curtis W. Bates, Forest Supervisor, Custer National Forest, P.O. Box 2556, Billings, Montana 59103.

FOR FURTHER INFORMATION CONTACT: Margaret Walker, EIS Team Leader, Custer National Forest, Phone (701) 225–5151.

SUPPLEMENTARY INFORMATION: This analysis will address oil and gas leasing and the site specific application of lease stipulations in the following areas:

1. Medora Ranger District—Those lands in North Dakota lying between and including T133N and a portion of T139N, and R99W and R106W, 5th PM. The northern boundary of the analysis area is a line two miles north of the line between T138N and T139N. Land within the analysis area totals approximately 704,000 acres. Forest Service owns approximately 275,000 acres within the analysis area and approximately 93,000 acres are leased.

2. *Grand River Ranger District*—Those lands in North Dakota lying between and including T129N and T130N, and R84W and R90W, 5th PM; and those lands in South Dakota lying between and including T17N and T23N, and R11E and R18E, Black Hills Meridian. Land within the analysis area totals approximately 472,737 acres. Forest Service owns approximately 155,000 across within the analysis area and approximately 30,000 acres are leased.

3. *Sioux Ranger District.*—Those lands in South Dakota lying between and including T16N and T22N, and R4E and R9E, Black Hills Meridian. The area does not include the East and West Short Pine Hills. Land within the analysis area totals approximately 70,794 acres. Forest Service owns approximately 66,000 acres within the analysis area and approximately 42,000 acres are currently leased.

The area to be included in this analysis is located in the southern portion of the Williston Basin. The environmental impact statement (EIS) will address the environmental effects of leasing in the various management areas defined in the Custer National Forest Land and Resource Management Plan that was approved June 19, 1987. The scope of the EIS will be confined to those issues of oil and gas leasing and will not address the land allocations that were made in the Forest Plan.

The decision to be made is whether or not to issue oil and gas leases, and if so, what stipulations are necessary to protect other resource values. The Bureau of Land Management is responsible for the actual issuance of these leases, but the Forest Service, as the surface management agency must consent to the issuance of a lease on Acquired lands under the Mineral Leasing Act of 1947, or not object to leasing of Public Domain lands under the Federal Onshore Oil and Gas Leasing Reform Act of 1987. This consent or no objection can be conditioned by requiring certain stipulations to be attached to the leases.

This analysis will address oil and gas leasing in the following Management Areas (MA) as described in the Custer Forest Plan:

MA B—The goal of this management area is to provide for the continuation of livestock grazing, implementation of intensive range management systems, and the facilitation of minerals and energy development with consideration of other resource needs.

MA C—The goal of this management area is to manage key wildlife habitat areas for the optimum quality and diversity that the land can offer. Other resource activities will be modified to maintain or improve the existing habitat.

MA D—The goal is to maintain or improve the long-term diversity and quality of habitat for the selected species identified by Ranger District as well as accommodating other resource management activities such as timber harvest, livestock grazing, and oil and gas development.

MA E—The goal is to facilitate and encourage the exploration, development, and production of energy and mineral resources from the National Forest System lands.

MA F—The goal of the management area is to provide a spectrum of recreation opportunities and settings in and around developed sites and the access corridors to the sites in the categories of Semi-primitive Non-motorized/Motorized, Roaded Natural Appearing, and Rural.

MA L—The goal is to provide an opportunity for research, study, observation, and monitoring of natural-occurring ecological processes.

MA M—The goal of this management area is to manage to protect from conflicting uses in order to provide healthy, self-perpetuating plant and water communities that will have optimum diversity and density of understory vegetation.

MA N—The goal is to provide healthy, self-perpetuating plant communities that will have optimum diversity and density of understory and overstory vegetation.

MA O—The goal is to protect the unique geological and scenic features of the National Natural Landmarks and provide a recreation opportunity.

MA P—The goal is to provide adequate facilities for the administration of the Custer National Forest.

Federal, state, and local agencies, potential developers, and other individuals or organizations who may be interested in or affected by the decision are invited to participate in the scoping process. Input to identify the issues to be addressed in the conducting of this analysis will be gathered from the public through mailing of scoping information to all known interested publics. Similar information will be distributed through the local media. No public meetings are scheduled at this time.

Based on comments made by the public on past proposals or actions the following list of preliminary issues to be addressed has been identified. This list will be verified, expanded, or modified based on public scoping for this proposal.

1. The effects of leasing and subsequent actions on wildlife and wildlife habitat.

2. The effects of leasing and subsequent actions on woody draws, woodlands, and riparian areas.

3. The effect of leasing and subsequent actions on the integrity of Native American cultural and traditional sites.

Alternatives to be considered in this analysis will depend on the comments received during scoping, but the following have been identified as preliminary alternatives: (1) No Action (no leasing at this time), (2) Issue leases with the stipulations identified as standards and guidelines in the Custer Forest Plan, and (3) Issue leases with standard lease terms (no additional stipulations).

The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register.**

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their

participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by providing substantive comments at this time so they can meaningfully consider them and respond to them in developing issues and alternatives.

To assist the Forest Service in identifying and considering issues on the proposed action, comments should be as specific as possible. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.).

The draft environmental impact statement is scheduled for release to the public for comment on or about April 30, 1992 and the final statement being filed by December 20, 1992.

The responsible official for this EIS and these decisions is John W. Mumma, Regional Forester, USDA Forest Service, 200 East Broadway, P.O. Box 7669, Missoula, Montana 59807.

Dated: June 6, 1991.

John W. Mumma,

Regional Forester.

[FR Doc. 91–15337 Filed 6–26–91; 8:45 am]

BILLING CODE 3410–11–M

Devils Canyon Timber Sale; Tahoe National Forest; Nevada County, CA; Intent To Prepare an Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare environmental impact statement.

SUMMARY: Notice is hereby given that the Forest Service will prepare an environmental impact statement (EIS) on a proposal to harvest timber on the Nevada City Ranger District of the Tahoe National Forest.

The Proposed Action is to harvest 399 acres in the Devils Canyon Compartment in fiscal year 1992. Harvest would be a combination of sanitation, seed tree and clearcut, using tractor, skyline and helicopter methods. Possible alternatives include; to do nothing, to manage Devils Canyon drainage as a wildlife corridor by deferring harvest on 129 of the 399 total acres; to manage the Devils Canyon and Poorman Creek drainages as a wildlife corridor and California spotted owl habitat by deferring harvest on 253 of the 399 total acres, to minimize harvest impacts by changing harvest type to sanitation on the 399 acres; and to harvest on 399 acres using tractor and skyline systems.

Public comment and internal scoping over the past year and a half have identified the following as the major issues concerning the Devils Canyon drainage: ancient forest values, corridor for furbearing mammals, furbearer habitat, and spotted owl habitat.

The agency gives notice of the full environmental analysis and decision making process that will occur on the Proposed Action so that interested and affected people, along with local, State and other Federal agencies, are aware of how they may participate and contribute to the final decision. The Tahoe National Forest invites written input concerning issues specific to the Proposed Action.

DATES: Input concerning issues with the Proposed Action must be received by Friday, August 2, 1991.

ADDRESSES: Direct written input and questions about the Proposed Action and Environmental Impact Statement to the District Ranger, Nevada City Ranger District, Tahoe National Forest, P.O. Box 6003, Nevada City, CA 95959–6003.

FOR FURTHER INFORMATION CONTACT: Ruth Norman, Project Leader, Nevada City Ranger District, Tahoe National Forest, P.O. Box 6003, Nevada City, CA 95959–6003, telephone (916) 265–4531.

SUPPLEMENTARY INFORMATION: The proposed action is derived from a 1984 environmental assessment (EA), decision notice (DN) and updates (1989 and 1990).

The EIS will tier to the Tahoe National Forest Lands and Resource Management Plan and Forest Plan EIS. The purpose of the Proposed Action is to improve vigor of trees, maintain old-forest structure where important for visual quality and wildlife habitat (travel corridor), help satisfy short-term demands for timber, and increase the ability to control wildland fire.

Public participation for a supplement to the 1984 EA was first solicited in early 1990 and again in 1991. Letters were sent to individuals, organizations, and government agencies. A public field trip and workshop were held in April and May of 1991, at Devils Canyon and Nevada City Ranger District, respectively.

Considerable interest has been shown in retaining the Devils Canyon drainage as an old-growth corridor for wildlife, especially furbearing mammals.

Consultation with the U.S. Fish and Wildlife Service will be initiated with regard to listed species. Letters will be sent to those who received previous mailings. No public meetings are presently scheduled.

The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register.**

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of a draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 533 (9178). Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period on the draft EIS so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the Proposed Action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.)

A draft EIS is expected to be available for agency and public review by October 1991. A final EIS is expected to be completed by March 1992 and documented by a Record of Decision.

The resonsible official for this EIS and decision is John H. Skinner, Forest

Supervisor, Tahoe National Forest, P.O. Box 6003, Nevada City, CA 95959–6003.

Dated: June 19, 1991.

John H. Skinner,

Forest Supervisor.

[FR Doc. 91–15302 Filed 6–26–91; 8:45 am]

BILLING CODE 3410–11–M

Supplement to the Final Environmental Impact Statement for the Land and Resource Management Plan, Tahoe National Forest, Within Nevada, Placer, Plumas, Sierra, and Yuba Counties, CA; Intent To Prepare an Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Notice of Intent to prepare a supplement to an environmental impact statement.

SUMMARY: The Forest Service will prepare a Supplement to the Final Environmental Impact Statement (FEIS) for the Land and Resource Management Plan (LRMP) for the Tahoe National Forest (TNF) approved June 14, 1990. The supplement will disclose the effects of implementing the direction in the LRMP to develop a program for managing old growth, riparian, and old-forest habitats. This direction is found in several places including the Record of Decision, LRMP Forestwide Standard 23 (Endangered, Threatened, and Sensitive Species Management, pages V–27, and V–28), Forestwide Standard 25 (Diversity, pages V–28 and V–29), and Appendix D (pages D–2 and D–3). Management will be designed to provide suitable habitat for individual species such as pine marten, fisher, and Sierra Nevada red fox as well as the species groups associated with riparian and late seral stage habitats. The Forest Service invites specific written comments and suggestions on the scope of the proposed analysis. In addition, this notice includes an overview of the full environmental analysis and decision-making process that will occur on the proposal so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATES: Specific comments concerning the scope of the analysis should be sumitted by August 30, 1991.

ADDRESSES: Submit written comments and suggestions concerning the scope of the analysis to John H. Skinner, Forest Supervisor, Tahoe National Forest, 631 Coyote Street, P.O. Box 6003, Nevada City, California 95959–6003.

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed action and Environmental Impact Statement to Terry Randolph, Forest Planner, or Bill Baker, Environmental Coordinator, Tahoe National Forest, 631 Coyote Street, P.O. Box 6003, Nevada City, California 95959–6003, phone 916–265–4531.

SUPPLEMENTARY INFORMATION: The LRMP includes direction for developing programs for management of old growth and old-forest habitats. This direction is found in several places including the Record of Decision, LRMP Forestwide Standard 23 (Endangered, Threatened, and Sensitive Species Management, pages V–27 and V–28), Forestwide Standard 25 (Diversity, pages V–28 and V–29), and Appendix D (pages D–2 and D–3). The TNF is initiating this supplement as a continuation of our normal planning process; our schedule is to complete the supplement and amend the LRMP over the next 24 months.

The Issue

The issue of protecting or maintaining "old growth" has commonly represented by various wildlife species including the spotted owl and, specifically, furbearers on the TNF. There is a difference between classically defined "old growth"and habitat requirements for species living or using older forests. Usually, the animals are using and thriving in older forests that may or may not have all the attributes usually associated with true old-growth forests.

Definitions of old growth generally describe these areas as consisting of old trees (200 years and older), little evidence of human activity, more that one three-canopy level, down logs, big trees, and snags.

Much of the Tahoe National Forest was logged during the mining era, about 1850 to 1910, which has resulted in much of the Tahoe supporting thrifty stands of relatively young (80- to 130-year-old) trees. These same stands, however, also support large trees.

Where are We Now

(1) The TNF is currently assessing old growth and habitats for old-forest-associated wildlife through the project-area environmental analysis process until a forestwide program can be developed.

(2) We are currently completing a literature review on topics ranging from old-growth definitions, and ecological values of old-growth forests, to habitat requirements for those species requiring or associated with mature/old-growth forest components. In addition, we are developing an inventory of old-forest stands for use in the analysis.

(3) The Chief has produced a statement on the values of old growth, which is enclosed and will be used as a starting point for determining the value and amount of old growth to be managed on the Forest.

(4) Old growth and older-forest habitats on the TNF will be managed; however, the intensity and direction of that management will vary with objectives based on old-growth and older-forest values and site-specific conditions. Stategies for management may range from old-growth set/aside areas, with monitoring as the only management activity, to areas where regeneration harvest is the management activity.

Where We Want to Be

(1) We want to plan for sustainable old-growth and other late seral stage habitats for the TNF.

(2) We want to have reliable information on the amount and location of older forests on the TNF. In addition, we want to know the amount and distribution of older forests on other lands.

(3) Finally, we would like to reach a consensus with our publics on a program for managing old growth and older-forest habitats. The program would identify the amount and location for old-forest management now and into the future.

Chief's Position Statement on National Forest Old-Growth Values

The Forest Service recognizes the many significant values associated with old-growth forests, such as biological diversity, wildlife and fisheries habitat, recreation, aesthetics, soil productivity, water quality, and industrial raw material. Old growth on the National Forests will be managed to provide the foregoing values for present and future generations. Decisions on managing existing old-growth forests to provide these values will be made in the development and implementation of forest plans.

These plans shall also provide for a succession of young forests into old-growth forests in light of their depletion due to natural events or harvest.

Old-growth forests encompass the late stages of stand development and are distinguished by old trees and related structural attributes. These attributes such as tree size, canopy layers, snags, and down trees, generally defined forests that are in an old-growth condition. The specific attributes vary by forest type. Old-growth definitions are to be developed by forest type or type groups for use in determining the extent and distribution of old-growth forests.

Where goals for providing old-growth values are not compatible with timber harvesting, lands will be classified as unsuitable for timber production. Where these goals can be met by such measures as extending the final harvest age well beyond the normal rotation or by using silvicultural practices that maintain or establish specific old-growth values, lands will be classified as suitable for timber production. In making these determinations, consideration shall be given to the extent and distribution of old growth on National Forest lands that are Congressionally or administratively withdrawn from timber harvest, as well as adjacent ownerships.

Old-growth values shall be considered in designing the dispersion of old growth. This may range from a network of old-growth stands for wildlife habitat to designated areas for public visitation. In general, areas to be managed for old-growth values are to be distributed over individual National Forests with attention given to minimizing the fragmentation of old growth into small isolated areas. Old growth on lands suitable for timber production and not subject to extended rotations is to be scheduled for harvest to establish young stands which more fully utilize potential timber productivity and also meet other resource objectives.

Regions with support with Research shall continue to develop forest type old-growth definitions, conduct old-growth inventories, develop and implement silvicultural practices to maintain or establish desired old-growth values, and explore the concept of ecosystem management on a landscape basis. Where appropriate, land management decisions are to maintain future options so the results from the foregoing efforts can be applied in subsequent decisions. Accordingly, field units are to be innovative in planning and carrying out their activities in managing old-growth forests for their many significant values.

Generic Definition and Description of Old-Growth Forest

Purpose and Scope

The following describes the ecologically important structural features of old-growth ecosystems. Measurable criteria for these attributes will be established in more specific definitions for forest types, habitat types, plant associations or groupings of them. The intent of the generic definition is to guide design of specific definitions and new inventories that include measurement of specific attributes. Although old-growth ecosystems may be distinguished functionally as well as structurally, this definition is restricted primarily to stand-level structural features which are readily measured in forest inventory.

Definition

Old-growth forests are ecosystems distinguished by old trees and related structural attributes. Old growth encompasses the later stages of stand development that typically differ from earlier stages in a variety of characteristics which may include tree size, accumulations of large dead woody material, number of canopy layers, species composition, and ecosystem function.

Description

The age at which old growth develops and the specific structural attributes that characterize old growth will vary widely according to forest type, climate sites, conditions, and disturbance regime. For example, old growth in fire-dependent forest types may not differ from younger forest in the number of canopy layers or accumulations of down woody material. However, old growth is typically distinguished from younger growth by several of the following attributes:

1. Large trees for species and site.
2. Wide variation in tree sizes and spacing.
3. Accumulations of large-size dead standing and fallen trees that are high relative to earlier stages.
4. Decadence in the form of broken or deformed tops or bole and root decay.
5. Multiple canopy layers.
6. Canopy gaps and understory patchiness.

Compositionally, old growth encompasses both older forests dominated by early seral species, such as fire-dependent species, and forests in later successional stages dominated by shade-tolerant species. Rates of change in composition and structure are slow relative to younger forests. Different stages or classes of old growth will be recognizable in many forest types.

Sporadic, low-to-moderate severity disturbances are an integral part of the internal dynamics of many old-growth ecosystems. Canopy openings resulting from the death of overstory trees often give rise to patches of small trees, shrubs, and herbs in the understory.

Old growth is not necessarily "virgin" or "primeval." Old growth could develop following human disturbance.

The structure and function of an old-growth ecosystem will be influenced by its stand size and landscape position and context.

Responsible Official

John H. Skinner, Forest Supervisor, Tahoe National Forest, is the responsible official for the Management Plan and EIS. The analysis is expected to take up to 24 months and the Draft EIS is expected to be available for review and comment by October 1992. The Final EIS is scheduled to be completed by June, 1993.

Dated: June 19, 1991.

John H. Skinner,

Forest Supervisor.

[FR Doc. 91-15303 Filed 6-26-91; 8:45 am]

BILLING CODE 3410-11-M

COMMISSION ON CIVIL RIGHTS

Agenda and Public Meeting of the Wisconsin Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Wisconsin Advisory Committee to the Commission will be held from 1 p.m. until 5 p.m. on Wednesday, July 31, 1991, at the Marc Plaza Hotel, Milwaukee, Wisconsin. The purpose of this meeting is to discuss current issues, orient members, and plan future activities.

Persons desiring additional information should contact Committee Chairperson, James Baughman, at (608) 262-3691 or Constance Davis, Director of the Midwestern Regional Office, U.S. Commission on Civil Rights, at (312) 353-8311. Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, June 17, 1991.

Carol Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 91-15304 Filed 6-26-91; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 36-91]

Foreign-Trade Zone 65—Panama City, FL; Request for Manufacturing Authority Wellstream Corp., Flexible Pipe Plant

An application has been submitted to the Foreign-Trade Zones Board (the

Board) by the Panama City Port Authority, grantee of FTZ 65, on behalf of Wellstream Corporation, requesting authority for the manufacture of flexible pipe under zone procedures within FTZ 65, Panama City, Florida. it was filed on June 14, 1991.

The Wellstream facility (202 employees, 150,000 sq. ft.) is located at 1700 C Avenue within the Panama City Port Complex. The plant is used to produce flexible plastic composite piping, reinforced with steel, primarily for the offshore oil and gas extraction industry. The pipes range from 2 to 12 inches in size (inside diameter) and have burst pressure ratings of up to 20,000 psi. The piping is produced by covering an interlocked steel carcass (carbon or stainless) with viscous nylon or a similar compound. Two layers of flat steel bands are then wrapped to cover the hardened nylon. The final step in the external application of an extruded polymer, protective jacket.

Currently, components are purchased mainly from domestic sources. However, Wellstream wishes to improve its competitiveness in seeking foreign contracts, which may require foreign components. Foreign materials may include natural and synthetic rubber, non-alloy and stainless steel, polymers, nylon, and resins. The firm projects that approximately 60 percent of its annual shipments will be exported.

Zone procedures would exempt Wellstream from Customs duty payments on the foreign components that are used in production for export. On its domestic sales, the company would be able to choose the duty rate that applies to finished plastic piping reinforced with steel (HTS# 3917.31/3917/.39—3.1%). The duty rates on foreign materials range from zero to 11.6 percent. The applicant indicates that zone savings will improve the plant's international competitiveness.

Comments concerning the application are invited from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before August 12, 1991. Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: June 21, 1991.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 91–15354 Filed 6–26–91; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[C-122-807]

Fresh, Chilled and Frozen Pork From Canada: Revocation of Countervailing Duty Order and Termination of Administrative Review

AGENCY: Import Administration, International Trade Administration, Commerce.

EFFECTIVE DATE: June 27, 1991.

FOR FURTHER INFORMATION CONTACT: Rick Herring or Roy A. Malmrose, Office of Countervailing Duty Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone (202) 377–3530 or 377–5414.

Revocation of Order and Termination of Administrative Review

On July 24, 1989, the Department of Commerce ("Commerce") published notice of its *Final Countervailing Duty Determination: Fresh, Chilled and Frozen Pork from Canada* (54 FR 30774). On September 13, 1989, the International Trade Commission ("Commission") made a determination that the domestic industry was threatened with material injury by reason of the importation of the subject merchandise. As a result, Commerce issued a countervailing duty order with respect to the products subject to investigation (54 FR 39031, September 22, 1989). Subsequent to publication of the order, Canadian respondents appealed both Commerce's and the Commission's determinations to the U.S.-Canada Binational Panel ("Panel"), pursuant to Article 1904 of the United States-Canada Free Trade Agreement ("FTA") and title IV of the United States-Canada Free Trade Implementation Act of 1988, 19 U.S.C. 1516a(g)(2) (1989).

On January 22, 1991, the panel reviewing the Commission's threat of injury determination concluded that the finding was not supported by substantial evidence and remanded to the Commission. Pursuant to this remand, the Commission determined on February 12, 1991 that an industry in the United States was not threatened with material injury by reason of imports of fresh, chilled and frozen pork from Canada. *Fresh, Chilled and Frozen Pork from Canada,* USITC Pub. 2362, Inv. No. 701–TA–298 (Feb. 1991).

On March 27, 1991, an Extraordinary Challenge Committee ("Committee") was requested pursuant to Article 1904.13 and Annex 1904.13 of the FTA to review the January 22, 1991 Panel decision. The Committee has now affirmed the Panel's decision. Memorandum Opinion and Order, ECC–91–1904–01USA (June 14, 1991). As a result, Commerce is revoking the countervailing duty order on fresh, chilled and frozen pork from Canada. The Department will instruct the Customs Service to proceed with liquidation of all unliquidated merchandise without regard to countervailing duties and to refund all cash deposits and release all securities posted to cover estimated countervailing duties.

The Department is also terminating the administrative review initiated for the period of September 13, 1939 through March 31, 1990 (55 FR 43153).

Dated: June 21, 1991.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 91–15355 Filed 6–26–91; 8:45 am]

BILLING CODE 3510-DS-M

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of application for an amendment to an export trade certificate of review.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, has received an application for an amendment to an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and requests comments relevant to whether the Certificate should be amended.

FOR FURTHER INFORMATION CONTACT: George Muller, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the

applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether a Certificate should be amended. An original and five (5) copies should be submitted not later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, room 1800, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Informtion Act (5 U.S.C. 552). Comments should refer to this application as "Export Trade Certificate of Review, application number 89–3A016."

OETCA has received the following application for an amendment to Export Trade Certificate of Review No. 89–00016, issued on February 5, 1990 (55 FR 4647, February 9, 1990). Previous amendments to the Certificate were issued on November 7, 1990 (55 FR 47784, November 15, 1990) and on April 17, 1991 (56 FR 16328, April 22, 1991).

Summary of the Application

Applicant: National Geothermal Association, P.O. Box 1350, Davis, California 95617.

Contact: Arthur John Armstrong, Counsel, Telephone: (202) 452–6972.

Application No.: 89–3A016.

Date Deemed Submitted: June 13, 1991.

The National Geothermal Association seeks to amend its Certificate by:

(1) Adding REEP, Inc. and USGIC Dominica, L.P., both of Bethesda, MD, as "Members" of the Certificate; and

(2) Revising paragraphs 1, 6, 7, and 8 of the Export Trade Activities and Methods of Operation section of the Certificate as follows:

1. Engage in joint selling arrangements for the sale of Products and/or Services in Export Markets, such as joint marketing, negotiations, offering, bidding and financing, and allocate sales resulting from such arrangements.

6. Coordinate the development of projects in Export Markets, such as project identification, project financing, exploration, scientific and/or technical assessment, transportation and/or delivery, installation, construction, operations, servicing, ownership and transfer of project ownership; and establish joint warranty, service, parts warehousing, and training centers related to the foregoing.

7. Engage in joint promotional activities, such as advertising, demonstrations, field trips, and trade shows and trade missions; and bring together, from time to time, groups of Members to plan and discuss how to fulfill technical and commercial Product and Service requirements of specific export customers in order to develop existing or new Export Markets.

8. Establish and operate jointly owned subsidiaries or other joint venture entities owned exclusively by Members for the purposes of engaging in the Export Trade Activities and Methods of Operation herein other than the licensing of associated Technology Rights pursuant to paragraph 15. NGA and/or one or more of its Members may establish and operate joint ventures for operations in Export Markets with non-Members, including (a) public-sector foreign corporations and other foreign governmental entities, and/or (b) private-sector foreign entities such as corporations.

Dated: June 21, 1991.

George Muller,

Director, Office of Export Trading Company Affairs.

[FR Doc. 91–15293 Filed 6–26–91; 8:45 am]

BILLING CODE 3510–DR–M

[Docket No. 910515–1115]

Foreign Buyer Program; Support for Domestic Trade Shows

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Call for applications for the FY93 Foreign Buyer Program (October 1, 1992, through September 30, 1933).

SUMMARY: This notice sets forth objectives, procedures and application review criteria associated with the U.S. Department of Commerce's Foreign Buyer Program (FBP) to support domestic trade shows.

The FBP was established to bring foreign buyers together with U.S. firms by promoting leading U.S. trade shows in industries with high export potential. The FBP emphasizes cooperation between the Department and trade show organizers to benefit U.S. firms exhibiting at selected events and provides practical, hands-on assistance to U.S. companies interested in exporting. The assistance provided includes export counseling, market analysis, and overseas promotion of selected shows to potential foreign buyers, end-users, agents and distributors. Shows selected for the Foreign Buyer Program will provide a venue for U.S. companies interested in expanding their sales into international markets.

DATES: Applications must be received by July 31, 1991.

ADDRESSES: Export Promotion Services/ Foreign Buyer Program, U.S. and Foreign Commercial Service (US&FCS), International Trade Administration, U.S. Department of Commerce, room 2118, 14th and Constitution Avenue NW., Washington, DC 20230. Tel. (202) 377–0481 (facsimile applications will not be accepted).

FOR FURTHER INFORMATION CONTACT: Product Manager, Foreign Buyer Program, room 2118, Export Promotion Services, U.S. and Foreign Commercial Service, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC 20230. Tel. (202) 377–0461 or fax 202/377–0178.

SUPPLEMENTARY INFORMATION: The International Trade Administration of the U.S. Department of Commerce is accepting applications for the Foreign Buyer Program (FBP) for events taking place between October 1, 1992, and September 30, 1993.

Under the FBP, the Department seeks to bring foreign buyers together with U.S. firms by selecting and promoting in foreign markets domestic trade shows in industries with high-export potential. Selection of a trade show is one-time, i.e., a trade show organizer seeking selection for a recurring event must submit a new application for selection for each occurrence of the event. If the event occurs more than once in the 12 month period covering this announcement, the trade show organizer must submit a separate application for each event.

The Department will select 18 events to support during this 12 month period. If resources permit, additional shows may be added to the schedule of events. The Department will select those events that, in its judgment, most clearly and best meet the Department's objectives as well as satisfy the selection criteria. For this reason, non-selection of an event should not be viewed as a finding that the event will not be successful in promoting U.S. exports.

The collection of the information required in an application is authorized by law (15 U.S.C. 1512 *et seq.*). A trade show will not be considered for the Foreign Buyer Program unless a completed application has been received.

The Office of Management and Budget has approved the information collection requirement contained in this notice under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et*

seq.) (OMB number 0625–0151 approved for use through September 30, 1991).

Public reporting burden for this collection of information is estimated to average 3 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Reports Clearance Officer, International Trade Administration, room 4001, U.S. Department of Commerce, Washington, D.C. 20230 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (0625–0151), Washington, DC 20503.

General Selection Criteria

Subject to Departmental budget and resource constraints, selection will be granted to those events which, in the judgment of the Department, most clearly and best meet the following criteria:

(a) Export Potential. The products and services to be promoted at the trade show should be from U.S. industries which have high export potential as determined by U.S. Department of Commerce sources, i.e. best prospects lists and U.S. export statistics. (Certain industries are rated as priorities by our domestic and international commercial officers in their annual workplans and country marketing plans.)

(b) International Interest. Trade shows will be selected which meet the needs of a significant number of overseas markets covered by the US&FCS and correspond to marketing opportunities as identified by the posts in their country marketing plans (e.g. best prospects). Previous foreign attendance at the show may be used as an indicator.

(c) Scope of the Show. The event must offer a broad spectrum of U.S. made products and/or services for the subject industry. Trade shows with a majority of U.S. firms will be given preference.

(d) Stature of the Show. The trade show must be clearly recognized by the industry it covers as a leading event for the promotion of that industry's products and services both domestically and internationally and as a showplace for the latest technology or techniques in that industry.

(e) Exhibitor Interest. Show Organizer must demonstrate interest on the part of U.S. exhibitors in receiving international business visitors during the trade show. A significant number of these exhibitors should be new-to-export or seeking to expand sales into additional foreign markets.

(f) Overseas Marketing. Show Organizer must describe efforts made to market event overseas for prior shows as well as to detail international marketing efforts for the event for which FBP support is being sought.

(g) Logistics The trade show site, facilities, transportation services and availability of accommodations must be in keeping with the stature of an international-class trade show.

(h) Delegation Incentives Show Organizers should list types of incentives to be offered delegations and delegation leaders recruited through US&FCS overseas posts. Examples of incentives include waived or reduced admission fees to the event, competitive travel packages, plant tours, international receptions, complimentary accommodations for delegation leaders, etc.

(i) Cooperation Successful applicants will be required to enter into a Memorandum of Understanding (MOU) which sets forth the specific actions to be performed by the show producer/owner and the USDOC. There must be a willingness on the part of the trade show organizer to cooperate with the US&FCS to further the program's goals, and to adhere to target dates set out in the MOU and the event timetable.

Note: Past experience in the Foreign Buyer Program will be taken into account in evaluating current application to the program.

Department of Commerce Support of Foreign Buyer Program Events

The support provided for selected events may differ depending on the specific needs identified and agreed upon by the Department and the show organizer. Services may include, but are not limited to special overseas marketing efforts by staff of the US&FCS. Such marketing activities include contacting key foreign government and private sales prospects and providing publicity in appropriate Departmental periodicals.

Specific Department Actions

For selected shows the Department of Commerce will: (a) Designate a project manager as central contact to work with the show organizer on all aspects of promotion abroad and foreign buyer assistance at the show. The project manager will work closely with the show organizers' contact to develop an overall promotional timetable to promote the event.

(b) Advise and work closely with all interested U.S. Embassies and Consulates to encourage maximum trade show promotion and exposure for those exhibitors indicating export interest.

(c) Promote industry trade show participation through announcements in publications with overseas distribution. (E.g., regional and embassy commercial newsletters, and *Commercial News USA*).

(d) Provide show organizer with specifications of a DOC-designed hard panel system International Business Center (IBC), including furniture requirements, DOC office, conference rooms, lounge area, storage area, etc.

(e) Provide show organizer with samples of multi-language brochures, U.S. Embassy/Consulate address labels, shipping instructions and quantities required for overseas shipment.

(f) Provide show organizer with promotional articles about the Foreign Buyer Program and the services available to U.S. exhibitors and foreign visitors at the International Business Center. Will send a letter with program flyer to all U.S. exhibitors at least one month before the show to promote the IBC and the benefits of the Program.

(g) Provide a final show report to the show organizer not later than 120 days after the show. This report will include data collected by show organizer in a post show survey reflecting FBP results.

(h) Request US&FCS District Offices in the U.S. to provide export counseling or specific marketing information to those U.S. participants that have indicated a need for such counseling before and during the show.

(i) Review all printed materials bearing the Foreign Buyer Program logo for substantive and legal accuracy of statements regarding the Program or DOC activities and event support.

Commerce Services Provided at Trade Show Site

(a) At least one project manager will provide primary management of the International Business Center (IBC), facilitate matching foreign buyers with exhibiting U.S. companies, and inform U.S. companies about U.S. Department of Commerce products and services and other International Trade Administration programs. At least one Trade Specialist from a US&FCS District Office will be available during the show to provide additional export counseling.

(b) The Department of Commerce will provide export counseling at the International Business Center to exhibitors and assist foreign buyers to meet their purchasing/representation objectives during the show.

(c) US&FCS staff will participate, if appropriate, in special export promotion

seminars specifically aimed at new-to-market/new-to-export firms exhibiting at the trade show.

Specific Responsibilities of the Show Organizer

Show organizers selected for the FBP must: (a) Designate an official authorized to work with the US&FCS project manager on all aspects of the show promotion as well as a contact during the show to assist with foreign visitor information and product referral (matchmaking services).

(b) Produce and distribute a multilingual promotional brochure in four or more languages and in the quantities specified by the project manager for overseas distribution. Draft of the brochure must be approved by the project manager prior to printing and include the FBP logo and information on the Program and the services available for the international buyer. These brochures must be printed not less than six months prior to the show.

When mailing the brochures to overseas posts, the show organizer is expected to provide names of attendees to the most recent show (by country and on mailing labels if possible), most recent show directory/exhibits guide, and a press release directed to prospective international attendees. Copies of Commercial News advertisement, promotional video, etc. also may be made available.

(c) Produce a one-page promotional advertisement to be placed in Commercial News/USA. Advertisement must be approved by the project manager, have FBP logo prominently displayed, and refer foreign firms to "the Commercial Section of the nearest U.S. Embassy or Consulate" for information on the show(s).

(d) Coordinate with project manager in developing and promoting delegation incentive program to U.S. Embassies and Consulates. Program may include reduced admission fees, complimentary accommodations for delegation leaders leading delegations of more than 15 foreign buyers, etc., all intended to encourage recruitment of delegations.

(e) Provide overseas posts with hotel information at least 6 months prior to the event. Coordinate hotel reservations arrangements.

(f) With guidance from project manager, prepare and distribute an information letter and survey to U.S. exhibitors to determine interest in exporting and international marketing objectives. Information collected will include products or services that the U.S. exhibitors wish to export, international marketing objectives and geographic areas of interest to the company. Information will be incorporated by the show organizer into the show directory or as a separate Export Interest Directory. If published as an Export Interest Directory, two to three copies will be distributed to all Department of Commerce posts overseas 1–3 months prior to the show. If published in the show directory, copies will be distributed upon completion of the show. Preliminary copies may be distributed overseas prior to the show, if possible.

(g) Establish an International Business Center (IBC) at the show in a prominent location adjacent to the main registration area with conspicious display of signage throughout the show to indicate its location. The IBC will consist of a separate registration area for foreign visitors (see item k), lounge area, 2 to 3 conference rooms, and a business office for USDOC officials. The show organizer will staff the IBC with interpreters covering 5–7 languages and sufficient show organizer personnel to assist the two USDOC officials from Washington and the one District Office trade specialist. USDOC design specifications do not allow for pipe and drape at the IBC. A hard panel system is required. A business service center (photocopying, facsimile service, typing, etc.) for attendees and exhibitors may be located within the IBC.

(h) Provide to the project manager a proposed Convention Center floor layout indicating the location and dimensions of the Intl. Business Center at least six (6) months prior to the event.

(i) Provide all U.S. exhibitors with information about the IBC and Department of Commerce services prior to the show and encourage them to visit the IBC.

(j) Will include a one page advertisement in the show directory/exhibits guide highlight the FBP and the IBC and publish in the Show Daily an article describing the FBP and the services provided at the IBC. The copy will be supplied by the Department of Commerce.

(k) Establish a separate international registration system to ensure Commerce project managers access to all foreign attendees at time of registration and to facilitate distribution of the Export Interest Directory and Importer Profile Cards. This registration area should be located within the IBC or adjacent to it. The Importer Profile should include the product interest and marketing objectives of all foreign buyers interested in meeting with U.S. exhibitors. (Show organizers are encouraged to computerize this information). The Importer Profile will be posted at the International Business Center for the benefit of U.S. exhibitors U.S. attendees interested in international business and will be disseminated at the conclusion of the event to all U.S. exhibitors and U.S. attendees indicating interest in international business.

Important: The Show Organizer must provide a cashier to process all international registration and seminar fees. DOC employees are not bonded, and therefore, cannot handle currency.

(l) Within 3 months following the show, send the following information to all posts: Results of the selected FBP event and information on the next show, copies of the export interest and show directories, importer profile and printout of the names and addresses of the foreign attendees from the respective countries (Embassy/Consulate mailing labels will be provided by the project manager).

Show organizer will also survey all U.S. exhibitors to determine international business results. Survey will include the number of useful international contacts at the event, number of agent/distributor agreements made or pending, joint venture or licensee type arrangements made or pending, dollar value of overseas orders booked at event, and projected overseas sales as a result of contacts made at the event. This information will be incorporated into the final report to be prepared by the DOC project manager.

(m) Upon notification of acceptance into the Foreign Buyer Program, remit the appropriate contribution. For this recruitment period the contribution is $3,500.

Selection

Selection indicates that the Department has found the event to be a leading international trade show appropriate for participation by U.S. exporting firms and promotion in overseas markets by U.S. Embassies and Consulates. Selection does not constitute a guarantee by the U.S. Government of success of the show or of the undertaking or obligations of the show organizer. Selection is not an endorsement of the show organizer except as to its Foreign Buyer activities. Each successful applicant will be given copies of an official U.S. Department of Commerce logo and/or logo of the U.S. and Foreign Commercial Service for use in its advertising promotional materials. Further, DOC review is necessary of any materials using these logos.

Exclusions

Trade shows will not be considered that are either first time events or are

horizontal, that is, not industry specific. Annual trade shows will not be selected more than twice in any three year period (e.g., shows selected for fiscal years 1991 and 1992 are not eligible for inclusion in calendar year 1993, but will be considered in subsequent years).

When, Where and How to Apply for Selection in the 1993 Foreign Buyer Program

Except to the extent required by laws, no information of a proprietary nature reported on this application will be disclosed without the prior written consent of the relevant firm.

Please type the information requested below on company letterhead and mail two (2) complete sets of your application to: Product Manager, Foreign Buyer Program, room 2118, Cooperative Events Division, OEMP/EPS, U.S. and Foreign Commercial Service, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230.

Applications must be received at the above address by July 31, 1991. Facsimile applications will not be accepted. Answer to the questions listed below constitutes the formal application:

(1) Name of show.

(2) Site of show.

(3) Dates of show. Indicate if shoe is held annually, biennially, or other.

(4) Name, address, and phone number of applicant.

(5) Name, address, and phone number of applicant contact.

(6) Name, address, and phone number of show sponsor (trade association, national or state government, etc.)

(7) Basic history or description of show. Applicant must demonstrate that subject event is a leading international trade show for the industry (e.g., what makes this show unique as compared to other U.S. or international shows)? Include copies of previous show promotion materials.

(8) Resume of applicant's show experience.

(9) Number of total exhibitors at the past two shows (show U.S. and foreign separately).

(10) Specify net square feet of paid exhibit space the past two shows. Show U.S. and foreign separately.

(11) Specify the total number of attendees at the past two shows (show U.S. and foreign separately). Also include the number of countries represented at past two shows. Do not include exhibitor attendance in these figures.

(12) State any admission fees for show visitors and indicate if there are or will be reduced or waived fees for international visitors or for members of Embassy delegations.

(13) Give a description of any technical program offered and the cost to attend (if applicable).

(14) State product categories to be displayed.

(15) State the audience profile of potential foreign customers (target countries, industries, profession or technical level).

(16) Describe marketing efforts made to promote event overseas for prior show and proposed marketing plan for event being applied for (e.g. use of overseas trade associations, publications, travel agents, etc.).

(17) Sepcify delegation incentives to be offered to delegations and delegation leaders recruited through U.S. Embassies or Consulates. (Examples include waived or reduced admission fees to the exhibition or conference, competitive travel packages, plant tours, international receptions, complimentary accommodations for delegation leaders, etc.).

(18) Submit two (2) sets of all show promotional literature, including show catalog, for previous show.

Applicant must type the following and submit with the appropriate signature:

The above information is correct and the applicant will abide by the terms set forth in this Notice of Call for Applications for the FY93 Foreign Buyer Program (October 1, 1992, through September 30, 1993).

Applications will be processed by the Cooperative Events Division, Office of Export Marketing Programs, Export Promotion Services, and final selection of events will be made approximately 75 days after publication of this **Federal Register** notice.

Contribution. A contribution of $3,500 is required for shows selected and promoted during the October 1, 1992, through September 30, 1993, period.

ITA has determined that this action is not a major rule within the meaning of section 1(b) of Executive Order 12291. Therefore, a Regulatory Impact Analysis has not nor will be prepared. Because a notice of proposed rulemaking and an opportunity for public comment is not required for this agency action relating to practice and procedure under the Administrative Procedure Act (5 U.S.C. 553) or any other statute, no initial or final Regulatory Flexibility Analysis has to be or will be prepared. This notice does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

Dated: June 21, 1991

Ann H. Watts,

Director, Cooperative Events Division, Office of Export Marketing Programs, Export Promotion Services, U.S. and Foreign Commercial Service, International Trade Administration, U.S. Department of Commerce.

[FR Doc. 91-15294 Filed 6-26-91; 8:45 am]

BILLING CODE 3510-FP-M

Food and Drug Administration, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4204, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 90-212. *Applicant:* Food and Drug Administration, Bethesda, MD 20892. *Instrument:* Microvolume Stopped-flow Spectrofluorimeter, SF-17MW. *Manufacturer:* Applied Photophysics, United Kingdom. *Intended Use:* See notice at 55 FR 51752, December 17, 1990. *Reasons:* The foreign instrument provides: (1) Sub-millisecond dead times, (2) simultaneous absorbance and fluorescence measurements and (3) sample volumes to 100 µl. *Advice Submitted By:* National Institutes of Health: March 27, 1991.

Docket Number: 90-220. *Applicant:* University of Minnesota, Minneapolis, MN 55455. *Instrument:* Stopped-Flow Spectrofluorimeter, Model SHU/13-106. *Manufacturer:* Applied Photophysics Ltd., United Kingdom. *Intended Use:* See notice at 56 FR 11545, March 19, 1991. *Reasons:* The foreign instrument provides: (1) a fluorescence collection efficiency of f/0.4, (2) sub-millisecond dead time and sample size to 100 µl. *Advice Submitted By:* National Institutes of Health, March 27, 1991.

Docket Number: 90-225. *Applicant:* University of Utah, Salt Lake City, UT 84112. *Instrument:* GC/Mass Spectrometer/Data System, Model MAT 95. *Manufacturer:* Finnigan MAT, West Germany. *Intended Use:* See notice at 56 FR 1513, January 15, 1991. *Reasor s:* The

foreign instrument provides: (1) mass range to 17,000, (2) resolution to 60,000, (3) scan rate to 0.1 seconds per decade and (4) FAB ion source. *Advice Submitted By:* National Institutes of Health, March 27, 1991.

The National Institutes of Health advises that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 91-15356 Filed 6-26-91; 8:45 am]

BILLING CODE 3510-DS-M

Metro Health Medical Center, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4204, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 90-226. *Applicant:* Metro Health Medical Center, Cleveland, OH 44109. *Instrument:* Rapid Karyotyping System, Model RK1. *Manufacturer:* Image Recognition Systems, United Kingdom. *Intended Use:* See notice at 56 FR 4046, February 1, 1991. *Reasons:* The foreign instrument provides low-light image capture with a resolution of 768 x 575 pixels and computer classification of fluorescent stained chromosomes. *Advice Submitted By:* National Institutes of Health, March 27, 1991.

Docket Number: 90-230. *Applicant:* Harvard University School of Public Health, Boston, MA 02115. *Instrument:* Mass Spectrometer, Model ZAB-VSE. *Manufacturer:* VG Analytical, United Kingdom. *Intended Use:* See notice at 56 FR 4047, February 1, 1991. *Reasons:* The foreign instrument provides: (1) A focal plane ion detector, (2) resolution to 125 000, (3) scan rates to 0.1 seconds per decade and (4) mass range to 15 000. *Advice Submitted By:* National Institutes of Health, March 27, 1991.

Docket Number: 90-026. *Applicant:* The Regents of the University of California, Riverside, CA 92521. *Instrument:* Inductively Coupled Plasma/Mass Spectrometer, Model PlasmaQuad PQ2. *Manufacturer:* VG Instruments, United Kingdom. *Intended Use:* See notice at 56 FR 11546, March 19, 1991. *Reasons:* The foreign instrument provides quantitation of element species by mass detection of singly charged ions from an inductively coupled argon plasma with ppt detection limits. *Advice Received By:* National Institutes of Standards and Technology, November 20, 1990.

The National Institutes of Health and National Institute of Standards and Technology advise that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 91-15357 Filed 6-26-91; 8:45 am]

BILLING CODE 3510-DS-M

University of Arizona; Notice of Decision on Application For Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4204, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 90-227. *Applicant:* University of Arizona, Tucson, AZ 85721. *Instrument:* Stopped-Flow Spectrofluorimeter. *Manufacturer:* Hi-Tech Scientific, Ldt., United Kingdom. *Intended Use:* See notice at 56 FR 4046, February 1, 1991.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* The foreign instrument provides simultaneous absorbance and fluorescence measurements with sub-millisecond dead time over the spectral range of 200 to 900 nm. This capability is pertinent to the applicant's intended purpose. We know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 91-15358 Filed 6-26-91; 8:45 am]

BILLING CODE 3510-DS-M

University of Massachusetts at Amherst; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4204, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 91-016. *Applicant:* University of Massachusetts at Amherst, Amherst, MA 01003. *Instrument:* Modular Stereoscope, Model SB 190. *Manufacturer:* Cartographic Engineering Ltd., United Kingdom. *Intended Use:* See notice at 56 FR 8185, February 27, 1991.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* The foreign instrument provides: (1) A parallel guidance mechanism for smooth, continuous tracking, (2) independently focusing eye pieces, (3) fixed 4X magnification and (4) variable brilliance control. The National Oceanic and Atmospheric Administration advises in its memorandum dated April 30, 1991 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 91-15359 Filed 6-26-91; 8:45 am]

BILLING CODE 3510-DS-M

National Institute of Standards and Technology

[Docket No. 910513-1113]

State Technology Access Program

AGENCY: National Institute of Standards and Technology, Technology Administration, Department of Commerce.

ACTION: Availability of funds.

SUMMARY: In cooperation with the Small Business Administration and pursuant to the National Institute of Standards and Technology's (NIST) authority provided in 15 U.S.C. 272 *et seq.*, the Director of NIST invites proposals to establish pilot Technology Access Programs in five States to provide resident small businesses with improved online access to public and private technology, services and expertise, so as to accelerate the transfer of technology and expertise to small businesses and to improve the productivity and economic competitiveness of these small businesses.

Although not required to do so, any State may elect to hire a private contractor to carry out some or all aspects of the technology access program. Part of the Federal funds will be expected to subsidize or defray the cost of small business access to private sector data base vendors and to provide public access nodes for those small businesses lacking computer access. The States will be expected to provide an equal match to the Federal share. At least half of the State match must be in cash from non-Federal sources. The Federal funds must be used for the purpose of demonstration, training, and subsidized computer access by small business. The States will have discretion in proposing how they will apply their matching funds, provided it is consistent with the objective of improving the competitiveness of small business in their State.

CLOSING DATE FOR APPLICATIONS: Proposals for Technology Access Program will be accepted until August 12, 1991. Proposals received by NIST after that date will not be considered unless they are postmarked no later than that date and received within five working days thereafter.

ADDRESSES: Applicants must submit one signed original plus one (1) copy of the proposal along with Standard Form 424 (Rev 4-88) as referenced under the provisions of OMB Circular A-110 to: National Institute of Standards and Technology, Technology Services, Physics Building, room A363, Gaithersburg, MD 20899.

FOR FURTHER INFORMATION CONTACT: Donald W. Corrigan, 301-975-4511.

ELIGIBILITY: State Small Business Development Center Directors only shall be eligible to apply for funding on behalf of their State. Each State should submit no more than two proposals for a Technology Access Program.

SUPPLEMENTARY INFORMATION: The Fiscal Year 1991 Appropriation for the Small Business Administration (SBA) (Pub. L. 101-515) authorizes the establishment of pilot technology access programs within five States to provide funding to increase small businesses access to online databases. "The purpose of this program shall be to provide small businesses, in States selected to participate in this demonstration program, with access to public and private technology, services and expertise, so as to accelerate the transfer of technology and expertise to small businesses and to improve the productivity and economic competitiveness of the small business."

The Fiscal Year 1991 Authorization for SBA (Pub. L. 101-574) recommended their consultation with the National Institute of Standards and Technology (NIST) in making the awards to five States. NIST has an existing mandate to "provide technical assistance to State technology programs throughout the United States, in order to help those programs help businesses, particularly small and medium-sized businesses, to enhance their competitiveness through the application of science and technology."

The SBA Authorization also requires that the following selection criteria be included in selecting the five States:

(1) The ability of the State to carry out the purposes described . . . in a manner relevant to the needs of industries in that State;

(2) The ability of the State to integrate the implementation of the Program with existing Federal and State technical and business assistance resources, including Small Business Development Centers; and

(3) The ability of the State to continue the program established pursuant to this section after the termination of the Program.

As a result of a written agreement with SBA, NIST intends to use its existing authority to implement the pilot Technology Access Program on SBA's behalf and in close cooperation with them while, at the same time, furthering NIST's own objective of coordinated statewide programs of technical assistance to small businesses. Accordingly, NIST intends to enter into cooperative agreements with five States to demonstrate the value to small businesses of online access to commercially available computer databases and technical information services.

The Federal funds will have to be used to: (1) Defray all or part of the cost of small business access to database services during the term of the cooperative agreement; (2) actively demonstrate to small businesses the benefits of accessing such databases; and (3) train small business how to make the most effective use of such databases and access to technical information and consultants.

The legislation and legislative history make it clear that the Small Business Development Centers are intended to actively participate in these "Technology Access Programs." Consequently, we expect that the State SBDC Director will assume the lead role for this program in each State. However, the legislation and legislative history also make it clear that other existing technical and business assistance programs in the States are to be integrated into the development and operation of these programs. Careful attention will have to be given to the appropriate integration of all existing small business service programs within the State. Sharing of the funds among the participating State programs is implicit. However, Federal participants would be expected to use their own resources to support their participation.

Subsidized assisted computer searching of a wide range of both local and national technical and business databases is one element of the program. Access to a network of technical consultants available for subsidized initial inquiries is another program element. The legislative history also makes it clear that a desire for improved small business access to Federal technology and Federal expertise was one of the driving motivations for this legislation. Careful consideration will be given to those proposals which include credible plans to improve small businesses' access to Federal technology or technical expertise. However, the absence of such an element will not be counted against any proposal.

Since the long-term objective of the program is to improve the productivity and economic competitiveness within each participating State, it will be important for the participating States to carry out the program in a manner relevant to the needs of industries in that State. One indication of the overall ability of any State to fulfill the requirements of the program would be in

their analysis of their most economically significant industries, the nature of the small business segment of those industries, and the technical needs of those small businesses.

Financing Available

A total of $1 million is available for distribution in this fiscal year. Awards to five states are anticipated. Funding up to a maximum of $200,000 is available for each state. A matching contribution (half in non-Federal cash) from each state is required. Future or continued funding will be at the discretion of the National Institute of Standards and Technology based on such factors as satisfactory performance and the availability of funds.

Proposal Format

Proposals should be typewritten and organized in a manner consistent with required content of this notice. They should be no longer than 25 pages, not including appendices, and must convey the information required by this notice. Appendices of relevant supporting information are encouraged, including agreements with prospective private sector vendors. Letters of endorsement or other documents not germane to the evaluation criteria *should not be included.*

Proposal Content

Section 1. An executive summary.

Section 2. A description of the participating technical and business assistance programs within the State, how they will be integrated, their respective network, outreach and technology transfer experience, and the extent of their current computer usage.

Section 3. A description of the State's primary industries, the needs of the small business segments, and the feasibility of applying the Technology Access Program to fulfill their existing needs.

Section 4. A description of the types of services to be made available through the program and by whom.

Section 5. A description of the financial management plan including: the source of matching funds and how they will be used; costs, fees, and discounts provided by private sector vendors; the nature and extent of the computer access subsidy to small business; the planned application of user fees, if any; plans to continue the program after the Federal share ceases.

Section 6. An evaluation plan to enable measurement of the impact of the program.

Evaluation Criteria

Types and quality of services to be offered, including demonstration and training as well as demonstrated ability to establish public accessibility to on-line databases and their small businesses in their use in a manner relevant to the needs of industries in the State. (35 points)

Feasibility of the plan to integrate all relevant programs, including Federal and State technical and business assistance resources, including Small Business Development Centers. (20 points)

Experience of the participating programs in networking, outreach, technology transfer and computer applications to assist small businesses. (20 points)

Demonstrated understanding of the State's industry and its needs. (10 points)

Reasonableness of the plans to continue the program after Federal funds are no longer available. (10 points)

Method for evaluating the success, strengths and weaknesses of the program and responding to lessons learned. (5 points)

Paperwork Reduction Act

The SF–424 mentioned in this notice is subject to the requirements of the Paperwork Reduction Act and it has been approved by OMB under Control No. 0348–0006, and SF–LLL has been approved under Control No. 0348–0046.

Additional Requirements

All applicants must submit a certification ensuring that employees of the applicant are prohibited from engaging in the unlawful manufacturing, distribution, dispensing, possession or use of a controlled substance at the work site, as required by the regulations implementing the Drug-Free Workplace of 1988, 15 CFR part 26, subpart F. Applicants are subject to the Governmentwide Debarment and Suspension (Nonprocurement) requirements as stated in 15 CFR part 26.

Section 319 of Public Law 101–121 generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan. A "Certification for Contracts, Grants, Loans, and Cooperative Agreements" and the SF–LLL, "Disclosure of Lobbying Activities" (if applicable), is required to be submitted with any application. Applicants are reminded that a false statement may be grounds for denial or termination of funds and grounds for possible punishment by fine or imprisonment. Any recipient/applicant who has an outstanding indebtedness to the Department of Commerce will not receive a new award until the debt is paid or arrangements satisfactory to the Department are made to pay the debt.

An evaluation panel of six Federal employees including representatives of both NIST and SBA will evaluate all qualified proposals in accordance with the selection criteria set forth in this notice and selection will be based on their rank ordering. This review process should take approximately 30 days. Awards under this program shall be subject to all Federal and Departmental regulations, policies, and procedures applicable to financial assistance awards.

Dated: June 24, 1991.

John W. Lyons,

Director, National Institute of Standards and Technology.

[FR Doc. 91–15295 Filed 6–26–91; 8:45 am]

BILLING CODE 3510–13–M

National Oceanic and Atmospheric Administration

Status Review of Endangered Whales

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of availability of status reviews.

SUMMARY: NMFS has completed status reviews for eight species of large whales as required under section 4(c)(2) of the Endangered Species Act of 1973 (ESA). A report summarizing the reviews is available upon request.

FOR FURTHER INFORMATION CONTACT: Dr. Charles Karnella, Deputy Director, Office of Protected Resources, NMFS, 1335 East-West Highway, Silver Spring, MD 20910, 301/427–2322.

SUPPLEMENTARY INFORMATION: The ESA is administered jointly by the U.S. Fish and Wildlife Service (FWS), Department of the Interior, and NMFS, Department of Commerce. NMFS has jurisdiction over most marine species and, under section 4(a) of the ESA, determines whether species should be listed as endangered or threatened. FWS maintains and publishes the List of Endangered and Threatened Wildlife (List) in 50 CFR part 17 for all species determined by NMFS or FWS to be endangered or threatened. A list of endangered species under the jurisdiction of NMFS is contained in 50 CFR 222.23(a) and threatened species in 50 CFR 227.4.

Section 4(c)(2) of the ESA requires that, at least once every 5 years, a review of the species on the List be conducted as a basis for determining whether any species should be (1) removed from the List, (2) changed in status from an endangered species to a threatened species, or (3) changed in status from a threatened species to an endangered species. On January 3, 1990, NMFS published a notice in the **Federal Register** (55 FR 164) advising that status reviews were being conducted for species under its jurisdiction and soliciting comments and information. Status reviews for the following eight endangered whale species have been completed: Blue whale (*Blaenoptera musculus*), Bowhead whale (*Balaena mysticetus*), Fin whale (*Balaenoptera physalus*), Gray whale (*Eschrichtius robustus*), Humpback whale (*Megaptera novaeangliae*), Northern right whale (*Eubalaena glacialis*), Sei whale (*Balaenoptera borealis*), Sperm whale (*Physeter macrocephalus*).

A report Endangered Whales: Status Update summarizing the reviews is available upon request (see **FOR FURTHER INFORMATION CONTACT**). On the basis of this review, NMFS intends to publish a proposed determination in the **Federal Register** that the listing status of the eastern North Pacific (California) population of gray whale should be changed. The 1988 stock size is at least equal to the estimated initial stock size in 1846, and the stock has been increasing at an average rate of 3.2 percent per year since commercial whaling ended in the early 1960s.

Dated: June 14, 1991.

Michael F. Tillman,

Deputy Assistant Administrator for Fisheries.

[FR Doc. 91–15252 Filed 6–26–91; 8:45 am]

BILLING CODE 3510–22–M

National Technical Information Service

Prospective Grant of Exclusive Patent License

This is notice in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Technical Information Service (NTIS), U.S. Department of Commerce, is contemplating the grant of an exclusive license in the United States and certain foreign countries to practice the invention embodied in U.S. Patent Application Serial Number 7–451,953 entitled, Hepatocellular Oncogene to Triton Diagnostics, Inc. having a place of Business in Alameda, California. The Patent rights in this invention have been assigned to the United States of America.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The present invention relates to an oncoprotein specific for hepatocellular carcinomas and to a nucleotide sequence that codes for such a protein. The invention further relates to screening and diagnostic methodologies (and kits based thereon) that make use of the oncoprotein (or antibodies specific for same) and the nucleotide sequence.

The availability of the invention for licensing was published in the **Federal Register** of July 23, 1990.

A copy of the instant patent application may be purchased from the NTIS sales Desk by telephoning 1–800–553–NTIS or by writing to Order Department, NTIS, 5285 Port Royal Road, Springfield, VA 22161.

Inquiries, comments and other materials relating to the contemplated license must be submitted to Papan Devnani, Center for Utilization of Federal Technology, NTIS, Box 1423, Springfield, VA 22151. Property filed competing applications received by the NTIS in response to this notice will be considered as objections to the grant of the contemplated license.

Douglas J. Campion,

Center for Utilization of Federal Technology, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 91–15305 Filed 6–26–91; 8:45 am]

BILLING CODE 3510–04–M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board's Ad Hoc Committee on Air Force Aircraft Jet Engine Manufacturing and Production Processes will meet on 22–23 July 1991 from 8 a.m. to 5 p.m. at the ANSER Corporation, 1215 Jefferson Davis Highway, Arlington, Virginia.

The purpose of this meeting is to gather information for the study.

The meeting will be closed to the public in accordance with section 552b(c) of title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–4811.

Patsy J. Conner,

Air Force Federal Register, Liaison Officer.

[FR Doc. 91–15259 Filed 6–26–91; 8:45 am]

BILLING CODE 3910–01–M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement for the Proposed Development of Bel Marin Keys Unit V, Consisting of a Residential, Commercial, and Recreational Community in Marin County, CA

AGENCY: U.S. Army Corps of Engineers (San Francisco District), Department of Defense.

ACTION: Notice of intent to prepare a draft environmental impact statement.

SUMMARY: The Bel Marin Keys Development Associates have applied for Department of the Army (DA) permit for authorization to discharge dredged and fill material, and to work in navigable waters of the United States in association with the proposed development of Bel Marin Keys Unit V, consisting of a residential, commercial, and recreational community in Marin County, California. The permit application process, scoping process, and preparation of the Draft EIS will be the responsibility of the Regulatory Branch of the San Francisco District.

FOR FURTHER INFORMATION CONTACT: Questions regarding the scoping process, preparation of the draft EIS, and processing of the permit application may be directed to Dr. Susan Ryan at the Corps of Engineers (Telephone (415) 744–3322, ext. 224).

SUPPLEMENTARY INFORMATION:

1. Proposed Action

The Corps of Engineers (Corps) has received an application for a Department of the Army permit from the Bel Marin Keys Development Associates to develop Bel Marin Keys Unit V, consisting of a residential, commercial, and recreational community in Marin County, California. The proposed project site is presently farmed and is located just east of Highway 101 and just north of the former Hamilton Air Force Base in Marin County, California. The permit application will be processed by the Regulatory Branch of the San Francisco District, Corps of Engineers, pursuant to

the provisions of section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and section 404 of the Clean Water Act. (33 U.S.C. 1344).

The purpose of the proposed project is to construct a multipurpose development community with residential, commercial, and recreational components.

In accordance with the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*) the Corps has determined that the proposed action may have a significant impact on the quality of the human environment and therefore requires the preparation of an Environmental Impact Statement (EIS). A combined EIS/EIR (Environmental Impact Report) will be prepared with the Corps as the Federal lead agency for the EIS, and the County of Marin as the lead agency for the EIR.

2. Alternatives

The project alternatives under consideration are:

a. Proposed Project. The proposed Master Plan/Rezoning would allow for development of 1,190 new residential units, 152,000 square feet of commercial space, a 135 acre golf course, 15 acres of community park and marina, 463 acres of lagoons, 250 acres of seasonal marshland, and 660 acres of wetland habitat on a 1,610-acre site. The project also includes development of a ferry system, light rail system, bus system, and improvements in the local road system.

b. No Action Plan. Under this plan, which is equivalent to permit denial by the Corps, no action could be taken by the Bel Marin Keys Development Associates to develop the Bel Marin Keys Unit V residential, commercial, and recreational community.

c. Status Quo (Current Zoning) Alternate

d. Alternative Residential Development

e. Reduced Size Alternative

f. Alternative Mix/Type of Uses Alternative

g. Mitigated Project Design for Revised or Reconfigured Development Design

h. Higher Density Residential

i. Alternative Site

j. Other Project Proposals That are Identified During the Public Scoping Process

3. Scoping Process

Pursuant to the National Environmental Policy Act, as amended, agency planning for federal or federally permitted projects must include a "scoping" process. Scoping primarily involves determining the scope of issues to be addressed, and identifying the significant issues for in-depth analysis in the draft EIS. The scoping process includes public participation to integrate information regarding public needs and concerns into the environmental document.

The Corps and the County will hold a public scoping meeting on July 24, 1991 at 7 pm at the Bel Marin Keys Community Services District Community Center, #4 Montego Key, Novato, CA 94947. A formal presentation will precede the request for public comment. Representatives from the Corps of Engineers, the County, and the Environmental Science Associates, Inc. (the consultant preparing the joint EIR/EIS), will be available at this meeting to receive comments from the public regarding issues of concern that should be addressed in the environmental document.

Agencies and the public are also invited and encouraged to provide written comments in addition to, or in lieu of, oral comments at the scoping meeting. To be most helpful, the scoping comments should clearly describe specific environmental issues or topics which the commentator believes the document should address. Written statements should be mailed no later than August 7, 1991 to the District Engineer, U.S. Army Corps of Engineers, San Francisco District, 211 Main Street, San Francisco, California 94105.

a. Significant Issues The following issues have been identified as potentially significant and will be evaluated in the draft EIS:

(1) Geologic conditions.
(2) Water quality.
(3) Water supply.
(4) Endangered species.
(5) Wetlands.
(6) Air quality.
(7) Agricultural activity.
(8) Growth inducement.
(9) Traffic and transportation.
(10) Cultural resources.

b. Environmental Requirements Environmental review and other consultation requirements applicable to the proposed action include:

(1) National Environmental Policy Act, as amended.
(2) Clean Water Act, as amended.
(3) Clean Air Act, as amended.
(4) National Historic Preservation Act, as amended.
(5) Fish and Wildlife Coordination Act.
(6) Endangered Species Act, as amended.
(7) Coastal Zone Management Act.
(8) California Environmental Quality Act; and
(9) Council on Environmental Quality Memorandum—Analysis of Impacts on Prime and Unique Agricultural Lands.

4. Availability of EIS

The Draft EIS will be available for public review in December 1991.

Stanley G. Phernambucq,

LTC(P), EN Commanding.

[FR Doc. 91-15308 Filed 6-26-91; 8:45 am]

BILLING CODE 3710-FS-M

Intent To Prepare a Draft Supplemental Environmental Impact Statement (DSEIS) for Oakland Harbor, Deep Draft Navigation Improvements, Alameda County, CA

AGENCY: U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice of intent.

1. Summary: *Proposed Action.* The Corps of Engineers, San Francisco District has been authorized by the Water Resources Development Act of 1986, 99th Congress, 2nd Session, Public Law 99-662 to improve the navigation channels at Oakland Harbor in San Francisco Bay. The Port of Oakland is the non-Federal (i.e. local) sponsor of the Federal project. The environmental impacts of these improvements have been previously evaluated in Final Environmental Impact Statements filed with the Environmental Protection Agency in 1981 and 1985 and a Supplemental Environmental Impact Statement in 1988. The proposed Supplemental Draft Environmental Impact Statement will address changes in the authorized project related to dredged material disposal instituted since 1988.

For further information, contact Mr. Rod Chisholm, USAED, San Francisco, 211 Main Street, San Francisco, California 94105-1905; (415) 744-3032.

2. *Supplementary Information:* Construction of the authorized project for Oakland Harbor will generate an estimated 7 million cubic yards of dredged material. Disposal of this dredged material has been the subject of great controversy in the San Francisco Bay Area. As originally authorized, disposal of the dredged material was to be at a contemporary site identified by the U.S. Environmental Protection Agency as "SF-11" near Alcatraz Island in Central San Francisco Bay. Due to the mounding of dredged material historically disposed at the Alcatraz Site which was discovered in 1982, and increased public concern about the impact of large scale dredged material disposal events on the resources of San

Francisco Bay, ocean disposal of Oakland Harbor dredged material was proposed in 1988. A Supplemental EIS was prepared to evaluate the impacts of direct ocean disposal and designate an ocean disposal site under Section 103 of the Marine Protection Research and Sanctuaries Act of 1972. The ocean disposal site designation was given limited approval by EPA. The Record of Decision following the Final Supplemental EIS reduced the dredged material quantity for ocean disposal to 500,000 cubic yards and directed additional environmental documentation be prepared before construction of the remainder of the authorized project. After the Record of Decision was signed, the project was challenged in federal Court by local fisherman, and construction of a reduced project was delayed. The Federal Court decided not to enjoin the project, and the local sponsor, by section 215 agreement (42 USCA sec. 1962d–5a) with the Corps, started construction in May 1988. A few days after this construction began, the project was enjoined in State Court by a suit brought by San Mateo County, and construction was stopped. Both the Federal and state courts retain jurisdiction over the Project.

Authorized deep-draft navigation improvements to the Oakland Harbor would deepen the Outer Harbor and Inner Harbor from −35 feet Mean Low Lower Water (MLLW) to −42 feet MLLW. Approximately 3.4 miles of the Outer Harbor would be deepened and enlarged. Approximately 4.0 miles of the Inner Harbor would be deepened between the Entrance Channel reach and the Howard Terminal. The Entrance Channel, an area at channel mile 3.0, and the upper reach of the Inner Harbor Channel would be widened. An existing turning area in the Outer Harbor would be widened. A new turning basin for the Inner Harbor would be provided in the area of the Clay Street Pier. In addition, all berthing areas served by the project would be deepened by the local sponsor to depths commensurate with the improved Federal channels. All of these improvements will require the removal and disposal of approximately 7 million cubic yards of channel bottom sediments.

3. *Alternatives:* Dredged material disposal alternatives to be considered in the Draft Supplemental Environmental Impact Statement (DSEIS) are land and unconfined aquatic disposal. Dredged material disposal in the San Francisco Bay Area is the subject of intensive study by the Corps of Engineers, the Environmental Protection Agency, and two state regulatory agencies, under the Long-Term Management Strategy for the Disposal of Dredged Material in the San Francisco Bay Region (LTMS). The disposal alternatives to be discussed in the DSEIS reflect the work of the LTMS, but because of the needs of the Oakland Deepening Project, specific sites will be identified and analyzed.

Upland disposal of dredged material will be considered for the disposal of material unsuitable for unconfined aquatic disposal. Other land disposal options will be evaluated as an alternative to unconfined aquatic disposal of suitable material. Potential land sites identified at this time include: Galbraith Golf Course, on the Port of Oakland property in the City of San Leandro; former dry dock slips continguous to San Francisco Bay in the Port of Richmond, the Sonoma Baylands site adjacent to San Pablo Bay in Sonoma County, and other sites that are identified through the LTMS process and compatable with the timing of the Oakland Harbor project.

Open water dredged material disposal alternatives will include locations in both San Francisco Bay and the Pacific Ocean. San Francisco Bay sites to be evaluated include the Alcatraz Disposal Site (SF–11) near Alcatraz Island in central San Francisco Bay, and a proposed new site known as the Bay Farm Island Borrow Area located near the City of Alameda in San Francisco Bay.

The ocean disposal alternative will be limited to disposal at an EPA designated (designation in progress) ocean disposal site offshore of the Golden Gate. All open water disposal alternatives will include discussion of test results conducted under the Dredge Material Testing Manual, EPA–503/8–91/001 (New Greenbook).

4. *Scoping:* The San Francisco District, Corps of Engineers, in association with the non-Federal sponsor, the Port of Oakland, will hold meetings to invite public participation in identifying the important issues and information to be included in the DSEIS. Two scoping meetings are scheduled. The first meeting will be held at 7:30 p.m. at the Bay Model Visitor Center, 2800 Bridgeport Way, Sausalito, California on August 7, 1991. The second meeting will be held at 7:30 p.m. at the Port of Oakland, 530 Water Street, Oakland, California on August 8, 1991.

The District's experience has shown that the significant issues associated with the Oakland Project primarily concern the disposal of the dredged material. The following dredging and disposal impacts will be discussed in the DSEIS:

1. Acute water quality impacts (aquatic disposal).
2. Chronic and sublethal water quality impacts (aquatic disposal).
3. Aquatic resources impacts (aquatic disposal).
4. Water quality impacts (land disposal).
5. Terrestrial impacts (land disposal).
6. Wetland impacts (land disposal).
7. Air quality impacts (land disposal).
8. Contaminated material impacts (land disposal).
9. Disposal site capacity impacts (land and aquatic disposal).
10. Social-Economic impacts (aquatic and land disposal).

The DSEIS will be used as the primary information document to secure concurrence in a Federal Coastal Zone Consistency Determination. In addition, the DSEIS will be used by the local sponsor to meet its responsibilities under the California Environmental Quality Act (CEQA), and may also be used by the San Francisco Bay Regional Water Quality Control Board to meet its responsibilties under the same Act. Other reviews in which the DSEIS may be a secondary source of information are: Fish and Wildlife Coordination Act, Marine Protection, Research and Sanctuaries Act, Endangered Species Act, Clean Water Act, and "trustee agency" reviews by the State of California.

Stanley G. Phernambucq,
LTC(P) EN, Commanding.

[FR Doc. 91–15309 Filed 6–26–91; 8:45 am]
BILLING CODE 3710–SF–M

DELAWARE RIVER BASIN COMMISSION

Amendment to Comprehensive Plan and Water Code of the Delaware River Basin

AGENCY: Delaware River Basin Commission.

ACTION: Final rule revision.

SUMMARY: At its June 19, 1991 business meeting the Delaware River Basin Commission amended its Comprehensive Plan and Water Code in relation to water conservation performance standards for plumbing fixtures and fittings. The amendment revised a rule adopted by the Commission on May 24, 1989 by changing the effective date of Resolution No. 88–2 (Revised) from January 1, 1991 to July 1, 1991 in order to coordinate the effective date of the Commission's rule

with amendatory changes at the state and local levels.

EFFECTIVE DATE: July 1, 1991.

ADDRESSES: Copies of the Commission's Water Code are available from the Delaware River Basin Commission, P.O. Box 7360, West Trenton, New Jersey 08628.

FOR FURTHER INFORMATION CONTACT: Susan M. Weisman, Commission Secretary, Delaware River Basin Commission: Telephone (609) 883–9500.

SUPPLEMENTARY INFORMATION: The Commission held a public hearing on the proposed amendment on June 19, 1991 as noticed in the May 9, 1991 and June 12, 1991 issues of the **Federal Register** (Vol. 56, No. 90 and Vol. 56, No. 113). Based upon testimony received and further deliberation, the Commission has adopted its proposal and amended its Comprehensive Plan and Water Code of the Delaware River Basin.

Article 2 of the Water Code of the Delaware River Basin, which is referenced in 18 CFR part 410, is amended by the deletion of existing subsections 2.1.5.(1)(b) and 2.1.5(1)(c) and the addition of new subsections 2.1.5(1)(b) and 2.1.5(1)(c) to read as follows:

§ 2.1.5. Water conservation performance standards for plumbing fixtures and fittings.

(1) (a) * * *

(b) Any water conservation performance standards adopted prior to the effective date of this regulation that are not in compliance with the provisions of (a) shall be amended or revised to comply with the provisions of (a) by July 1, 1991.

(c) The Commonwealth of Pennsylvania is encouraged to adopt water conservation performance standards for plumbing fixtures and fittings that comply with the provisions of (a) by July 1, 1991. The Commission shall notify all municipalities within the Pennsylvania portion of the Basin of the requirement to adopt and enforce local regulations that comply with the provisions of (a) if Pennsylvania has not adopted such standards. Upon notification by the Commission, municipalities shall have one year to adopt such local regulations.

Delaware River Basin Compact, 75 Stat. 688.

Dated: June 21, 1991.

Susan M. Weisman,

Secretary.

[FR Doc. 91–15306 Filed 6–26–91; 8:45 am]

BILLING CODE 6360–01–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: An expedited review has been requested in accordance with the Act, since allowing for the normal review period would adversely affect the public interest. Approval by the Office of Management and Budget (OMB) has been requested by July 19, 1991.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection request should be addressed to Mary P. Liggett, Department of Education, 400 Maryland Avenue, SW., room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Mary P. Liggett, (202) 708–5174.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 3517) requires that the Director of OMB provide interested Federal agencies and persons an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Office of Information Resources Management, publishes this notice with the attached proposed information collection request prior to submission of this request to OMB. This notice contains the following information: (1) Type of review requested, e.g., expedited; (2) Title; (3) Abstract; (4) Additional Information; (5) Frequency of collection; (6) Affected public; and (7) Reporting and/or Recordkeeping burden. Because an expedited review is requested, a description of the information to be collected is also included as an attachment to this notice.

Dated: June 21, 1991.

Kent H. Hannaman,

Acting Director, Office of Information Resources Management.

Office of Special Education and Rehabilitative Services

Type of Review: Expedited.

Title: Application for Grants Under the Program for Children and Youth with Serious Emotional Disturbance.

Abstract: This form will be used by State Educational agencies and non-profit institutions to apply for funding under the Program for Children and Youth with Serious Emotional Disburbance.

Additional Information: An expedited review is requested in order to keep the grant awards under the Program for Children and Youth with Serious Emotional Disburbance in FY 1991. This application contains part I—Standard Form 424 (Application for Federal Assistance), part II—Standard Form 424A (Budget Information—Non-Construction Programs), part III—Application Narative, and part IV—Standard Form 424B (Assurances), Lobbying Certifications, Debarment Certifications, Drug-Free Certifications, and Lobbying Activities Disclosures.

Frequency: Annually.

Affected Public: State or local governments; Non-profit institutions.

Reporting Burden: Responses: 30.

Recordkeeping Burden: Recordkeepers: 0.

Burden Hours: 1,260.

Burden Hours: 0.

BILLING CODE 4000–1–M

DRAFT

PART III - APPLICATION NARRATIVE AND INSTRUCTIONS

Applications are more likely to receive favorable reviews by panels when they are organized according to the published evaluation criteria. If you prefer to use a different format you may wish to cross-reference the sections of your application to the evaluation criteria to be sure that reviewers are able to find all relevant information. These suggestions should be viewed, however, as advisory only; the scope and complexity of projects is too variable to establish firm limits on length and format.

The project applications include the following features in order listed below:

(a) An abstract of the project;
(b) The importance of the project;
(c) The technical method (soundness);
(d) The plan of operation which the applicant proposes to use to administer the project;
(e) The evaluation plan to evaluate the project;
(f) The key personnel to be used to achieve each objective;
(g) The adequacy of resources available and needed to achieve each objective;
(h) The probable impact of the project;
(i) organizational capability;
(j) The budget necessary to achieve the proposed activity.

[FR Doc. 91-15251 Filed 6-26-91; 8:45 am]
BILLING CODE 4000-1-C

DEPARTMENT OF ENERGY

Office of Fossil Energy

[FE Docket No. 91-20-NG]

Texaco Gas Marketing Inc.; Order Granting Blanket Authorization To Export Natural Gas to Mexico

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of an order granting blanket authorization to export natural gas to Mexico.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that is has issued an order granting Texaco Gas Marketing Inc. blanket authorization to export to Mexico up to 90 Bcf of natural gas over a two-year period beginning on the date of first delivery

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, June 21, 1991.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Fossil Energy.

[FR Doc. 91-15360 Filed 6-26-91; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 10570-001 Washington]

Barrish & Sorenson Hydroelectric Co.; Surrender of Preliminary Permit

June 21, 1991.

Take notice that Barrish & Sorenson Hydroelectric Company, Permittee for the Smith Creek Project No. 10570, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 10570 was issued November 18, 1988, and would have expired October 31, 1991. The project would have been located on Smith Creek within the Gifford Pinchot National Forest in Lewis County, Washington.

The Permittee filed the request on June 11, 1991, and the preliminary permit for Project No. 10570 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR part 4, may be filed on the next business day.

Lois D. Cashell,

Secretary.

[FR Doc. 91-15273 Filed 6-26-91; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 10764-001 Nevada]

Boulder Pumped Storage Power Co., Inc.; Surrender of Preliminary Permit

June 21, 1991.

Take notice that Boulder Pumped Storage Power Company, Inc., Permittee for the Boulder Project No. 10764, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 10764 was issued June 29, 1989, and would have expired May 31, 1992. The project would have been located Clark County, Washington.

The Permittee filed the request on June 5, 1991, and the preliminary permit for Project No. 10764 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR part 4, may be filed on the next business day.

Lois D. Cashell,

Secretary.

[FR Doc. 91-15270 Filed 6-26-91; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 10757-001 Nevada]

Brown Stone Canyon Pumped Storage Power Co., Inc.; Surrender of Preliminary Permit

June 21, 1991.

Take notice that Brown Stone Canyon Pumped Storage Power Company, Inc., Permittee for the Brown Stone Canyon Project No. 10757, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 10757 was issued June 29, 1989, and would have expired May 31, 1991. The project would have been located in Clark County, Washington.

The Permittee filed the request on June 5, 1991, and the preliminary permit for Project No. 10757 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR part 4, may be filed on the next business day.

Lois D. Cashell,

Secretary.

[FR Doc. 91-15271 Filed 6-26-91; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 10762-001 Nevada]

Frenchman Mountain Pumped Storage Power Co., Inc.; Surrender of Preliminary Permit

June 21, 1991.

Take notice that Frenchman Mountain Pumped Storage Power Company, Inc., Permittee for the Frenchman Mountain Project No. 10762, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 10762 was issued June 29, 1989, and would have expired May 31, 1992. The project would have been located in Clark County, Washington.

The Permittee filed the request on June 5, 1991, and the preliminary permit for Project No. 10762 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR part 4, may be filed on the next business day.

Lois D. Cashell,

Secretary.

[FR Doc. 91-15272 Filed 6-26-91; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 10754-001 Nevada]

LaMadre Mountain South Pumped Storage Power Co., Inc.; Surrender of Preliminary Permit

June 21, 1991.

Take notice that LaMadre Mountain South Pumped Storage Power Company, Inc., Permittee for the LaMadre Mountain South Project No. 10754, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 10754 was issued June 29, 1989, and would have expired May 31, 1992. The project would have been located in Clark County, Nevada.

The Permittee filed the request on June 5, 1991, and the preliminary permit

for Project No. 10754 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR part 4, may be filed on the next business day.

Lois D. Cashell,

Secretary.

[FR Doc. 91–15274 Filed 6–26–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM91–1–63–003]

Carnegie Natural Gas Co.; Notice of Compliance Filing

June 21, 1991.

Take notice that on June 14, 1991, Carnegie Natural Gas Company ("Carnegie") tendered for filing the following revised tariff sheet to its FERC Gas Tariff, Second Revised Volume No. 1:

3 Substitute First Revised Sheet No. 10

The above tariff sheet is proposed to be effective October 1, 1990.

Carnegie states that it is filing the above tariff sheet to comply with the Commission's Letter Order issued on May 30, 1991, in Docket Nos. RP88–127–007, *et al.* Carnegie states that, as directed by the Commission, the revised tariff sheet correctly states Carnegie's ACA charge applicable to its transportation rates as $.0021 per Dth rather than $.0022 per Mcf as previously stated. Carnegie also states that this revised tariff sheet was effectively superseded on June 1, 1991, by Second Revised Sheet No. 10, which implemented new transportation rates, subject to refund, in accordance with the Commission's suspension order issued in Carnegie's Section 4 rate proceeding in Docket No. RP91–37–000. 53 FERC 61,454 (1990).

Carnegie states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214. All such protests should be filed on or before June 28, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91–15275 Filed 6–26–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER91–475–000]

Montaup Electric Co., Notice of Filing

June 21, 1991.

On June 3, 1991, Montaup Electric Company (Montaup) tendered for filing its Conservation and Load Management Annual Report required under the provisions of its Conservation and Load Management Adjuster Mechanism as authorized under the terms of a Settlement Agreement in Docket No. ER90–247–000. On June 7, 1991, the Secretary issued a notice of the filing which stated that motions to intervene or protests were to be filed on or before June 21, 1991.

The June 7, 1991 notice of filing is hereby clarified to provide that the comment period established for the filing of motions to intervene or protests does not preclude any interested party from exercising rights under the Settlement Agreement including the right to file protests within 90 days in accordance with the terms of the Settlement Agreement.

Lois D. Cashell,

Secretary.

[FR Doc. 91–15279 Filed 6–26–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP88–227–024]

Paiute Pipeline Co.; Notice of Compliance Filing

June 21, 1991.

Take notice that on June 18, 1991, Paiute Pipeline Company (Paiute) tendered for filing the following substitute tariff sheets to be part of its FERC Gas Tariff, First Revised Volume No. 1–A:

Substitute Original Sheet No. 57
Substitute Original Sheet No. 58
Second Substitute Original Sheet No. 69

Paiute states that the purpose of its filing is to comply with the Commission's order issued June 3, 1991 in Docket Nos. RP88–227–022, et al. Paiute states that in that order the Commission granted reconsideration of an order issued March 26, 1991 and approved the provisions of a February 13, 1990 settlement offer and related certificate application, as clarified, with respect to the daily allocation for scheduling of transportation capacity on Paiute's system at its interconnection with Northwest Pipeline Corporation (the "Receipt Point"). Paiute states that it was directed to amend its April 25, 1991 compliance filing in Docket No. RP88–227–021 to reflect the conclusions in the June 3, 1991 order. To accomplish this purpose, Paiute indicates that it has revised § 4.2(d) of its General Terms and Conditions, which sets forth its Receipt Point capacity allocation procedure, and has made a conforming change to its annual overrun penalty provisions.

Paiute requests that the proposed tariff sheets be permitted to become effect June 1, 1991, in order to make such tariff sheets effective upon the date that Paiute implemented conversions of firm sales service to firm transportation service on its system.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214 and 385.211. All such protests should be filed on or before June 28, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91–15276 Filed 6–26–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP91–68–006]

Penn-York Energy Corp.; Notice of Proposed Changes in FERC Gas Tariff

June 21, 1991.

Take notice that Penn-York Energy Corporation ("Penn-York"), on June 18, 1991, tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to become effective on July 1, 1991.

Second Revised Sheet No. 8
Second Revised Sheet No. 17

Penn-York states that the purpose of this filling is to comply with the Commission's Letter Order and Order Denying Rehearing, issued April 2, and

June 3, 1991, respectively, in the above-captioned proceeding.

Penn-York states that copies of this filing were served upon the company's jurisdictional customers and the Regulatory Commissions of the States of Connecticut, Delaware, Massachusetts, New Hampshire, New York, Pennsylvania, New Jersey, and Rhode Island.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's rules of practice and procedure 18 CFR 385.214 and 385.211. All such protests should be filed on or before June 28, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-15277 Filed 6-26-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA91-1-40-005]

Raton Gas Transmission Co.; Notice of Compliance

June 21, 1991.

Take notice that on June 10, 1991, Raton Gas Transmission Company (Raton), to comply with the Commission's letter order dated May 31, 1991 filed Fourth Substitute Eighteenth Revised Sheet No. 4 and Third Revised Sheet No. 22 to its FERC Gas Tariff Original Volume No. 1.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capital Street, NW., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's rules of practice and procedure (18 CFR 385.214 and 385.211). All such protests should be filed on or before June 28, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make Protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-15269 Filed 6-26-91; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 8910-000 Wyoming]

Ten Sleep Hydropower, Inc.; Availability of Environmental Assessment

June 21, 1991

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for major license for the proposed Ten Sleep Creek Project, to be located on Ten Sleep Creek in Washakie County, near Ten Sleep, Wyoming, and has prepared an Environmental Assessment (EA) for the proposed project. In the EA, the Commission's staff has analyzed the project and has concluded that approval of the proposed project, with appropriate mitigative measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, Room 1000, of the Commission's offices at 825 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 91-15278 Filed 6-26-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP91-2314-000]

Zenith Natural Gas Co; Application To Abandon and Petition for Declaratory Order

June 20, 1991.

Take notice that on June 18, 1991, Zenith Natural Gas Company (Zenith), 30 West Sherman, Hutchinson, Kansas 67501, filed an application in Docket No. CP91-2314-000 for permission to abandon jurisdictional sales service to Panhandle Eastern Pipe Line Company (Panhandle) and for an expedited order declaring that Zenith is a gathering company exempt from regulation as a jurisdictional pipeline company, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Zenith indicates that effective on July 1, 1991, Panhandle would no longer purchase natural gas from Zenith and is entitled to automatic abandonment of its purchase obligation to Zenith upon expiration of its current contract. Zenith requests the Commission to authorize Zenith to abandon its sales service obligation to Panhandle.

Zenith states that it currently operates a small system located primarily within Barber County, Kansas, with one short six-mile diameter segment extending 2.5 miles into Woods County, Oklahoma. It is indicated that the system gathers gas from 25 wells in three gas fields and consists of well laterals ranging from two to six inches in diameter converging into slightly larger-diameter supply lines. Zenith states that it currently purchases gas at the wellhead and sells gas to Panhandle and the City of Hardtner, Kansas, with approximately 99 percent of the gas being sold to Panhandle. Zenith states that upon the termination of its sales to Panhandle it would be faced with the prospect of discontinuing or substantially reducing operations on July 1, 1991. It is also indicated that the wells from which Zenith purchases its supplies would be forced to be shut in and that service to Hardtner, Kansas would be jeopardized.

Zenith states that consistent with the modified primary function test adopted in the Amerada Hess case, 52 FERC 61,268, that, upon abandonment of its sales to Panhandle, its facilities should be declared to be gathering facilities exempt from regulation under section 1(b) of the Natural Gas Act. In support of this contention, Zenith describes its facilities as small diameter, short-length, and low-pressure.

Zenith also requests to be treated as an independent producer in order to allow Zenith to change its rates under the blanket authority of § 154.94 of the Commission's regulations. Zenith indicates that otherwise it would be unable to adjust its rates for sales to Hardtner without burdensome and repetitive rate filings under the Natural Gas Act.

Any person desiring to be heard or to make any protest with reference to said petition should on or before July 1, 1991 file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to

intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Secretary.

[FR Doc. 91-15280 Filed 6-26-91; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3968-6]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before July 29, 1991.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Research and Development

Title: Milk Cow and Population Survey (EPA No. 1221.03; OMB No. 2080-0017). This ICR is a renewal of an existing information collection.

Abstract: Under 44 U.S.C. 3501(1)(3), the EPA conducts an annual or biennial survey of dairy farms and ranches within a 300 kilometer radius of the Nevada Test Site (NTS). The information collected includes the location of dairy farms and ranches, and the diet and number of milk-producing livestock at these farms and ranches. The EPA compiles this information in a directory that is used, along with other data, to predict radiation exposure levels exposure levels outside of the NTS. The directory may also be used by the EPA to develop a sampling strategy following a release of radioactivity from the NTS.

Burden Statement: Public reporting burden for this collection of information is estimated to average 30 minutes per response including reviewing instructions, searching existing information sources, maintaining records, and completing and reviewing the collection of information.

Respondents: Farms.

Estimated Numbers of Respondents: 565.

Frequency of Collection: Annual.

Estimated Number of Responses Per Respondent: 1.

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM-223Y), 401 M Street, SW., Washington, DC 20460.

and

Ron Minsk, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th St., N.W., Washington, DC 20503.

OMB Responses to Agency PRA Clearance Requests

EPA ICR # 1432.06; Temporary Final Rule to Implement Title 604 of the Clean Air Act; was approved 06/06/91; OMB # 2060-0170; expires 06/30/92.

EPA ICR # 1285.03; Nonconformance Penalties for Heavy-Duty Engines and Heavy-Duty Vehicles, Including Light-Duty Trucks; was approved 06/07/91; OMB # 2060-0132; expires 06/30/94.

EPA ICR # 1132.03; NSPS for Volatile Organic Liquid Storage Vessels—subpart KB; was approved 06/06/91; OMB # 2060-0074; expires 06/30/94.

EPA ICR # 1072.03; NSPS Recordkeeping and Reporting Requirements for Lead-Acid Battery Manufacturing (NSPS subpart KK); was approved 05/23/91; OMB # 2060-0081; expires 05/31/94.

EPA ICR # 1093.03; NSPS for the Surface Coating of Plastic Parts for Business Machines (Subpart TTT); was approved 05/23/91; OMB # 2060-0162; expires 05/31/94.

EPA ICR # 1160.03; NSPS for Wool Fiberglass Manufacturing (subpart PPP) Information Requirements; was approved 05/23/91; OMB # 2060-0114; expires 05/31/94.

EPA ICR # 1157.03; NSPS for Flexible Vinyl and Urethane Coating and Printing Information Requirements (subpart FFF); was approved 05/23/91; OMB # 2060-0073; expires 05/31/94.

EPA ICR # 0940.07; Ambient Air Quality Networks—Montoring and Quality/Precision Data; was approved 05/23/91; OMB # 2060-0084; expires 05/31/94.

Dated: June 21, 1991.

David Schwarz,

Acting Director, Regulatory Management Division.

[FR Doc. 91-15342 Filed 6-26-91; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3968-5]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 29, 1991.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: NSPS subpart G—Information Requirements for Nitric Acid Plants. (ICR #1056.04; OMB #2060-0019). This is a renewal of a currently approved collection.

Abstract: Owners or operators of nitric acid plants must notify EPA of construction, reconstruction, modification, date of anticipated and actual startup, shutdown, malfunctions and date and results of performance tests. Owners or operators of affected facilities are required to install, calibrate, maintain, and operate a continuous monitoring system (CMS) for the measurement and recording of nitrogen oxides. They must submit semiannual reports of excess emissions measured by CMS that include all 3-hour periods during which the average nitrogen oxides emissions exceeds 1.5 kg per metric ton of nitric acid produced. EPA uses the information to determine compliance with and enforce the new source performance standard.

Burden Statement: The public reporting burden for this collection of information is estimated to average 9.15 hours per response for reporting, and 175 hours per recordkeeper annually. The estimated reporting burden includes the time needed to review instructions, search existing data sources, gather the data needed and review the collection of information.

Respondents: Owners and operators of nitric acid plants.

Estimated No. of Respondents: 36.

Estimated No. of Responses Per Respondent: 2.

Estimated Total Annual Burden on Respondents: 6,959 hours.

Frequency of Collection: Once and semiannually.

Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223Y), 401 M Street, SW., Washington, DC 20460.

and

Troy Hillier, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20503.

Dated: June 21, 1991.

David Schwarz,

Acting Director, Regulatory Management Division.

[FR Doc. 91–15343 Filed 6–26–91; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–00107; FRL–3932–4]

Biotechnology Science Advisory Committee; Subcommittee on the Proposed Biotechnology Rule under TSCA; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of open meeting.

SUMMARY: There will be a 1–day meeting of the Biotechnology Science Advisory Committee's Subcommittee on the proposed biotechnology rule under TSCA. The meeting will be open to the public. The Subcommittee will review a set of scientific issues being considered by the Agency in connection with a proposed rule under the Toxic Substances Control Act (TSCA) for screening and use of microorganisms subject to TSCA.

DATES: The meeting will be held on Monday, July 22, 1991, starting at 9 a.m. and ending at 5 p.m.

ADDRESSES: The meeting will be held at: The Hyatt-Regency Crystal City, 2799 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS–799), Office of Toxic Substances, Environmental Protection Agency, rm. EB–44, 401 M St., SW., Washington, DC 20460, telephone (202) 554–1404, TDD (202) 554–0551.

SUPPLEMENTARY INFORMATION: This notice is in accordance with the Federal Advisory Committee Act which requires timely notice of each meeting of a Federal Advisory Committee be published in the **Federal Register**. This notice announces such a meeting. Attendance by the public will be limited to available space. The TSCA Assistance Office will provide summaries of the meeting at a later date.

Dated: June 21, 1991.

Linda J. Fisher,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 91–15314 Filed 6–24–91, 2:02 pm]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

June 21, 1991

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, Downtown Copy Center, 1114 21st Street, NW., Washington, DC 20036, (202) 452–1422. For further information on this submission contact Kathy Conley, Federal Communications Commission, (202) 632–7513. Persons wishing to comment on this information collection should contact Jonas Neihardt, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395–4814.

OMB Number: 3060–0051.

Title: Application for Renewal of Ship/Aircraft Radio Station License.

Action: Revision.

Respondents: Individuals, State or local governments, Business (including small business), and Non-profit institutions.

Frequency of Response: On occasion reporting and other: every 5 years

Estimated Annual Burden: 50,000 responses, .166 hours average burden per respondent, 8,300 hours total annual burden.

Needs and Uses: The FCC 405B is a computer generated expiration notice which is sent to Ship and Aircraft Radio Station licensees. By returning this notice to the FCC, the licensees are able to renew their authorization when there are no changes or only minor changes to the existing authorization. Data is used to update the existing database and to issue renewed licenses.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 91–15362 Filed 6–26–91; 8:45 am]

BILLING CODE 6712–01–M

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

June 21, 1991

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reducation Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, Downtown Copy Center, 1114 21st Street, NW., Washington, DC 20036, (202) 452–1422. For further information on this submission contact Kathy Conley, Federal Communications Commission, (202) 632–7513. Persons wishing to comment on this information collection should contact Jonas Neihardt, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395–4814.

OMB Number: None.

Title: Application for Renewal of Private Radio Station License.

Action: New Collection.

Respondents: Individuals State or local governments, Business (including small business), and Non-profit institutions.

Frequency of Response: On occasion reporting and other: every 5 years.

Estimated Annual Burden: 2,700 responses, .166 hours average burden per respondent, 448 hours total annual burden.

Needs and Uses: This form is filed by licensees in the Marine Coast and Aviation Ground Radio services for renewal of an existing authorization. The data is used to determine eligibility for renewal, issue a radio station authorization, and used in conjunction with field engineers for enforcement purposes.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 91–15363 Filed 6–26–91; 8:45 am]

BILLING CODE 6712–01–M

[Report No. 1849]

Petitions for Reconsideration and Clarification and Motion for Stay of Actions in Rule Making Proceedings

June 20, 1991.

Petitions for reconsideration have been filed in the Commission rule making proceedings listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in room 239, 1919 M Street, NW., Washington, DC, or may be purchased from the Commission's copy contractor Downtown Copy Center (202) 452–1422. Oppositions to these petitions must be filed July 15, 1991. See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of the Maritime Services Rules (part 80) to revise the General Exemption for Small Passenger Vessels Operated on Domestic Voyages. (PR 90–134). Number of Petitions Received: 2.

Subject: Policies and Rules Concerning Operator Service Providers. (CC Docket No. 90–313, RM–6767). Number of Petitions Received: 6.

Motion for Stay

Subject: Policies and Rules Concerning Operator Service Providers. (CC Docket No. 90–313, RM–6767). Number of Petitions Received: 1.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 91–15250 Filed 6–26–91; 8:45 am]

BILLING CODE 6712–01–M

Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city and state	File No.	MM Docket No.
A. Winona Ear Leasing Associates, Inc.; Winona, MN.	BPH–900509ML	91–155
B. James Ingstad; Winona, MN.	BPH–900514MD	.....
C. Home Broadcast Company; Winona, MN.	BPH–900514MG	.....
D. Winona Radio Company; Winona, MN.	BPH–900514MJ	.....
E. R and B Partnership; Winona, MN.	BPH–900514ML	.....
F. Minnesota Public Radio; Winona, MN.	BPED–900514MA (herein dismissed)	.....

Issue heading and Applicants
1. Air Hazard, A–E
2. Comparative, A–E
3. Ultimate, A–E

II

A. Saga Communications of Illinois, Inc.; Hillsboro, IL.	BPH–891227MH	91–154
B. Benjamin L. Stratemeyer; Hillsboro, IL.	BPH–891228MG	.....
C. Hillsboro Broadcasting Company; Hillsboro, IL.	BPH–891228MN	.....

Issue heading and Applicants
1. Air Hazard, A,C
2. Comparative, A,B,C
3. Ultimate, A,B,C

III

A. Heart of Georgia Broadcasting; Chauncey, GA.	BPH–891204MK	91–153
B. William A. Culpepper; Chauncey, GA.	BPH–891206MF	.....
C. Chauncey Broadcasting, Inc.; Chauncey, GA.	BPH–891206MI	.....

Issue heading and Applicants
1. Air Hazard, A,B
2. Comparative, ALL
3. Ultimate, ALL

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth above. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used to signify whether the issue in question applies to that particular applicant.

3. If there is any non-standardized issue in this proceeding, the full text of the issue and the applicant to which it applies is set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, Downtown Copy Center, 1114 21st Street NW., Washington, DC 20036 (Telephone No. (202) 452–1422).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 91–15246 Filed 6–26–91; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a request for OMB review of the information collection system described below.

Type of Review: Revision of a currently approved collection.

Title: Report of Pledged Assets.

Form Number: None.

OMB Number: 3064–0010.

Expiration Date of OMB Clearance: July 31, 1991.

Frequency of Response: On occasion and semiannually.

Respondents: U.S. branches of foreign banks and depositories holding their pledged assets.

Number of Respondents: 51.

Number of Responses Per Respondent: 2.78.

Total Annual Responses: 142.

Average Number of Hours Per Response: 1.

Total Annual Burden Hours: 142.

OMB Reviewer: Gary Waxman, (202) 395–7340, Office of Management and Budget, Paperwork Reduction Project (3064–0010), Washington, DC 20503.

FDIC Contact: Steven F. Hanft, (202) 898–3907, Office of the Executive Secretary, room F–400, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted before August 26, 1991.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed above. Comments regarding the submission should be addressed to both the OMB

reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: Section 5(c) of the Federal Deposit Insurance Act (12 U.S.C. 1815(c)) provides that before any U.S. branch of a foreign bank becomes insured, the bank shall deliver to the FDIC a surety bond, a pledge of assets, or both. The pledged assets are to be lodged at a designated depository. The assets will protect the FDIC against the risks of insuring the domestic deposits of a U.S.-based branch of a foreign bank whose operations are in large part outside the United States. To ensure compliance, the FDIC has placed reporting requirements (initial and semiannual reports) in its regulation regarding Foreign Banks, 12 CFR part 346.

Dated: June 21, 1991.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 91–15283 Filed 6–26–91; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

June 21, 1991.

Background

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act of 1980, as per 5 CFR 1320.9, "to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320.9." Board-approved collections of information will be incorporated into the official OMB inventory of currently approved collections of information. A copy of the SF 83 and supporting statement and the approved collection of information instrument(s) will be placed into OMB's public docket files. The following forms, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority.

DATES: Comments must be submitted on or before July 12, 1991.

ADDRESSES: Comments, which should refer to the OMB Docket number (or Agency form number in the case of a new information collection that has not yet been assigned an OMB number), should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551, or delivered to room B–2223 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected in room B–1122 between 8:45 a.m. and 5:15 p.m., except as provided in § 261.8(a) of the Board's Rules Regarding Availability of Information, 12 CFR 261.8(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below. Federal Reserve Board Clearance Officer—Frederick J. Schroeder—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202–452–3829).

Proposal to approve under OMB delegated authority the extension, without revision, of the following report:

1. Report title: Annual Report on Status of Disposition of Assets Acquired in Satisfaction of Debt Previously Contracted.

Agency form number: FR 4006.

OMB Docket Number: 7100–0129.

Frequency: Annual.

Reporters: Bank holding companies.

Annual reporting hours: 3000.

Estimated average hours per response: 5.

Number of respondents: 600.

Significant effect on small business is not expected.

General description of report: This information collection is required by law [12 U.S.C. 1843(c)(2) and 1844(c)]. Certain portions may be given confidential treatment at applicant's request [5 U.S.C. 552(b)(4)]

Abstract: Bank holding companies that acquire assets in satisfaction of debts previously contracted are required to submit an annual report to the Board on the progress made to dispose of assets or shares that have been held two years beyond the initial date of their acquisition. The report is submitted by letter, does not have required format, and serves to identify potentially unsound situations and to encourage timely compliance with the divestiture requirement as contained in the statutes and regulation.

Proposal to approve under OMB delegated authority the implementation of the following report:

1. Report title: Survey of the Nation's Check-Collection System.

Agency form number: FR 3065.

OMB Docket Number: 7100–0251.

Frequency: One-time.

Reporters: Certain depository institutions.

Annual reporting hours: 40,000.

Estimated average hours per response: 80.

Number of respondents: 500.

Small businesses are not affected.

General description of report: This information collection is voluntary [12 U.S.C. 4001 *et seq.*] and individual respondent data from the depository institutions are given confidential treatment [5 U.S.C. 552(b)(4)].

Abstract: The Federal Reserve proposes to participate with the Bank Administration Institute (BAI) in a survey of the nation's check-collection system. The survey would involve a sample of some 500 depository institutions nationwide and is aimed at providing an accurate, up-to-date description of the U.S. check-collection system and clearing patterns at both the national and regional levels, as well as on a bank-size basis. The survey would provide information regarding forward collection and returned check processes, as well as the increasing use of electronic check services.

Board of Governors of the Federal Reserve System, June 21, 1991.

William W. Wiles,

Secretary of the Board.

[FR Doc. 91–15298 Filed 6–26–91; 8:45 am]

BILLING CODE 6210–01–M

[Docket No. 7100–0126]

Federal Reserve Reporting Form

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Interim extension of agency form.

BACKGROUND: Notice is hereby given of approval, on an interim basis, by the Board of Governors of the Federal Reserve System ("Board") of the extension of the reporting requirement that is identified below, under authority delegated to the Board by the Office of Management and Budget ("OMB"), as

per 5 CFR 1320.9 (OMB Regulations on Controlling Paperwork Burdens on the Public). The approval on an interim basis allows for the uninterrupted collection of confidential data by the Federal Reserve System. The extension will allow the Federal Reserve to continue the information collection in its current form until a review of the reporting requirements can be completed in view of the restrictions contained in sections 23A and 23B of the Federal Reserve Act and in other proposed regulations governing intercompany transactions. (All proposed revisions resulting from these efforts would undergo the normal clearance process, including the opportunity for public comment.) The interim extension shall be effective immediately. The Board will consider all public comments and determine, on the basis of those comments, whether this extension as approved on an interim basis should become final.

DATES: Comments must be submitted on or before July 12, 1991.

ADDRESSES: Comments, which should refer to the OMB Docket numbers, should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551, or delivered to room B-2223 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected in room B-1122 between 8:45 a.m. and 5:15 p.m., except as provided in § 261.8(a) of the Board's Rules Regarding Availability of Information, 12 CFR 261.8(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the report form, the request for clearance (SF 83), supporting statement, instructions, and other documents that will be placed into OMB's public docket files upon final approval may be requested from the agency clearance officer, whose name appears below. Federal Reserve Board Clearance Officer—Frederick J. Schroeder—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3829).

Questions on the substance of the proposal should be addressed to Steve Lovette, Manager, Policy Implementation Section, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3622).

Interim approval under OMB delegated authority of the one-year extension, without revision, of the following report:

1. Report title: Report of Bank Holding Company Intercompany Transactions and Balances.

Agency form number: FR Y-8.

OMB Docket number: 7100-0126.

Frequency: Semiannual.

Reporters: Bank holding companies.

Annual reporting hours: 10,080.

Estimated average hours per response: 9.

Number of respondents: 550.

Small businesses are not affected.

General description of report: This report is mandatory [12 U.S.C. 1844(c)] and collections data required to supervise bank holding companies and their subsidiary banks. The data gathered on the form is accorded confidential treatment [5 U.S.C. 552b(8)].

Abstract: This report collects data on the transactions between a domestic bank holding company (or its nonbank subsidiaries) and its subsidiary banks. The information collected enables the Federal Reserve to identify categories of intercompany funds flows, internal transactions and balances that may have an adverse impact on the safety and soundness of federally-insured bank subsidiaries of bank holding companies.

A one-year interim extension is proposed to allow sufficient time to review the reporting requirements in view of the restrictions placed on intercompany transactions by sections 23A and 23B of the Federal Reserve Action and other applicable regulations. These modifications have become necessary to address supervisory and regulatory concerns arising from recent significant increases in intercompany transactions.

Board of Governors of the Federal Reserve System, June 21, 1991.

William W. Wiles,

Secretary of the Board.

[FR Doc. 91-15299 Filed 6-26-91; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration; Statement of Organization, Functions, and Delegations of Authority

Part H, chapter HF (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (35 FR 3685, February 25, 1970, as amended most recently in pertinent part at 55 FR 42655, October 22, 1990) is amended to change the designator for the chapter and all of its sections from HF to HK and to reflect the organization realignment of the Food and Drug Administration. The realignment will establish an overall management and organizational structure that will reduce the FDA Commissioner's span of control to better develop and to implement the Agency's strategic objectives.

Food and Drug Administration

Under chapter HK, list the major sections of the chapter and its statements as:

HK-A Mission
HK-B Organization
HK-C Order of Succession
HK-D Delegations of Authority

Under section HK-A, Mission, substitute the following:

The mission of the Food and Drug Administration (FDA) is to protect the public health of the Nation as it may be impaired by foods, drugs, biological products, cosmetics, medical devices, ionizing and non-ionizing radiation-emitting products and substances, poisons, pesticides, and food additives. FDA's regulatory functions are geared to insure that: Foods are safe, pure and wholesome; drugs, medical devices, and biological products are safe and effective; cosmetics are harmless; all of the above are honestly and informatively packaged; and that exposure to potentially injurious radiation is minimized.

Under section HK-B, Organization, substitute the following:

The Food and Drug Administration is administered by a Commissioner of Food and Drugs under the direction of the Assistant Secretary for Health. The Food and Drug Administration consists of the following major components with functions as indicated.

Under section HK-B, Organization, substitute all titles and functional statements within the Food and Drug Administration with the following:

Office of the Commissioner (HKA). The Commissioner and the Deputy Commissioners are responsible for the efficient and effective implementation of the Food and Drug Administration's (FDA) mission.

The Office of the Commissioner includes the: Office of the Administrative Law Judge (HKA2), Office of Executive Operations (HKA4), Office of Equal Employment and Civil Rights (HKA5).

Office of Operations (HKB). Advises and assists the Commissioner and other

key officials on compliance-oriented matters.

Develops and administers all Agency field operations and provides direction and counsel to Regional Food and Drug Directors.

Administers regulation of biological products under the biological product control provisions of the Public Health Service Act and applicable provisions of the Federal Food, Drug, and Cosmetic Act. Works to develop an AIDS vaccine and AIDS diagnostic tests, and conducts other AIDS-related activities.

Develops and administers programs with regard to the safety, effectiveness, and labeling of all drug products for human use.

Develops and administers programs with regard to the safety, composition, quality (including nutrition), and labeling of foods, food additives, colors, and cosmetics.

Develops and administers programs with regard to control of unnecessary exposure of humans to, and assures the safe and efficacious use of, ionizing and non-ionizng radiation-emitting electronic products.

Develops and administers programs with regard to the safety, effectiveness, and labeling of medical devices for human use.

Develops and administers programs with regard to the safety and effectiveness of animal drugs, feeds, feed additives, veterinary medical devices (medical devices for animal use), and other veterinary medical products.

The Office of Operations includes the: Office of Regulatory Affairs (HKBC), Regional Field Offices (HKBR), Center for Biologics Evaluation and Research (HKBB), Center for Drug Evaluation and Research (HKBD), Center for Food Safety and Applied Nutrition (HKBE), Center for Devices and Radiological Health (HKBW), Center for Veterinary Medicine (HKBV).

Office of Policy (HKC). Directs and coordinates the Agency's rulemaking activities and regulations development system. Initiates new and more efficient systems or procedures to accomplish Agency goals in the rulemaking process and plans "regulatory reform" steps.

Serves as the Agency focal point for developing and maintaining communications, policies, and programs with regard to regulations development and international harmonization, including international standard setting and bilateral agreements on inspections.

Office of External Affairs (HKE). Advises and assist the Commissioner concerning legislative needs. Serves as focal point for overall legislative liaison activities.

Advises and assists the Commissioner and other key officials on all public information programs. Acts as the focal points for disseminating news on FDA activities.

Advises and assists the Commissioner on health issues which have an impact on policy, direction, and long-range program goals. Coordinates Agency relations with health professional groups and represents the Agency on issues involving technology assessment and medical insurance coverage decisions regarding FDA-regulated products.

Advises and assists the Commissioner on consumer affairs issues. Serves as the Agency focal point for coordinating information from the appropriate Agency components about significant consumer affairs issues.

Advises and assists the Commissioner and other Agency officials on industry-related issues which have an impact on policy, direction, and goals. Serves as Agency focal point on small business, scientific, and trade affairs.

The Office of External Affairs includes the: Office of Small Business, Scientific, and Trade Affairs (HKEC), Office of Health Affairs (HKEB), Office of Legislative Affairs, (HKED), Office of Consumer Affairs (HKEG), Office of Public Affairs (HKEJ).

Office of Science (HKH). Advises and assists the Commissioner on scientific biotechnological issues which have an impact on policy, direction, and long-range goals.

Manages the implementation of the provisions of the Orphan Drug Act.

Coordinates the Agency's Acquired Immune Deficiency Syndrome (AIDS) program.

Advises and assists the Commissioner with regard to research programs being conducted to study the biological effects of potentially toxic chemical substances found in the environment to determine the adverse health effects resulting from long-term, low-level exposure to chemical toxicants in animal organisms, to develop improved methodologies and test protocols for evaluating the safety of chemical toxicants, and to develop data to facilitate the extrapolation of toxicological data from laboratory animals to man.

The Office of Science includes the: Office of AIDS Coordination (HKHC), Office of Orphan Products Development (HKHE), Office of Biotechnology (HKHH), National Center for Toxicological Research (HKHT).

Office of Management and Systems (HKJ). Advises and assists the Commissioner regarding the performance of FDA resource planning, development, and evaluation activities.

Develops programs and planning stragegy through analysis and evaluation of issues affecting policies and program performance.

Assures that the conduct of Agency administrative and financial management activies, including budget, finance, personnel, organization, methods, grants and contracts, procurement and property, records, and similar support activities, effectively supports program operations.

Coordinates the integration and development of management information systems.

Advises the Commissioner on management information systems policies.

The Office of Management and Systems includes the: Office of Planning and Evaluation (HKJB), Office of Management (HKJC).

Under Section HK–D, Delegations of Authority, add the following paragraph:

Prior Delegations of Authority. Pending further delegations, directives, or orders by the Commissioner of Food and Drugs, all relevant delegations in effect prior to the date of this order shall continue in effect among officers, employees, or their successors.

Dated: June 7, 1991.

Louis W. Sullivan,

Secretary.

[FR Doc. 91–15254 Filed 6–26–91; 8:45 am]

BILLING CODE 4160–1–M

Agency for Toxic Substances and Disease Registry

[ATSDR–35]

Environmental Protection Agency;

Intent To Revise the Priority List of Hazardous Substances That Will Be the Subject of Toxicological Profiles

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Public Health Service (PHS), Department of Health and Human Services (DHHS); and Environmental Protection Agency (EPA).

ACTION: Request for Public Comment on the Revised Methodology for Generating the Priority List of Hazardous Substances.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund), as amended by the Superfund Amendments and Reauthorization Act (SARA), establishes certain requirements for ATSDR and EPA with regard to

hazardous substances which are most commonly found at facilities on the CERCLA National Priorities List (NPL). CERCLA, as amended (42 U.S.C. 9604(i)(2)), requires that the two agencies prepare a list, in order of priority, of at least 100 hazardous substances that are most commonly found at facilities on the NPL and which, in their sole discretion, are determined to pose the most significant potential threat to human health (see 52 FR 12866, April 17, 1987). CERCLA also requires the agencies to revise the priority list to include 100 or more additional hazardous substances (see 53 FR 41280, October 20, 1988), and to include at least 25 additional hazardous substances in each of the three successive years following the 1988 revision (see 54 FR 43619, October 26, 1989; 55 FR 42067, October 17, 1990). Each substance on the list of priority hazardous substances becomes the subject of a toxicological profile prepared by ATSDR.

This notice provides notification that the algorithm used to generate the priority list of hazardous substances is being reevaluated and revised to include more current and comprehensive information in the ranking process. With this notice, ATSDR and EPA solicit public comment on this revised approach for evaluating and ranking hazardous substances found at NPL sites. After the agencies consider the comments received, the revised algorithm will be applied to an inventory of candidate substances, as described in section II.A. of this notice, including the 250 previously ranked substances, to generate a new priority list of 275 hazardous substances which will be the subject of toxicological profiles. This new list will be published in the **Federal Register** on or before October 17, 1991, fulfilling the requirements of CERCLA section 104(i), as amended, which mandated the ATSDR to generate a priority list of 275 hazardous substances by that date. The agencies intend to revise the list of hazardous substances annually thereafter to reflect changes and improvements in data collection.

DATES: Comments concerning this notice must be received by July 26, 1991.

ADDRESSES: Comments on this notice should bear the docket control number ATSDR–35, and should be submitted to: ATSDR, Division of Toxicology, Mail Stop E–29, 1600 Clifton Rd. NE., Atlanta, GA 30333.

All comments will be placed in a publicly accessible docket; therefore, please do not submit confidential business information.

FOR FURTHER INFORMATION CONTACT: Quality Assurance Branch, Division of Toxicology, ATSDR, Atlanta, GA, 30333; 404–639–6030 or FTS 236–6030.

SUPPLEMENTARY INFORMATION:

I. Background

Section 104(i) of CERCLA, as amended, requires ATSDR and EPA to: (1) Prepare a list of hazardous substances found at NPL sites (in order of priority), (2) develop toxicological profiles for those substances, and (3) initiate a research program to fill priority data needs identified for the substances.

A priority list of the first 100 substances was published on April 17, 1987 (52 FR 12866), with a short summary of the procedure used by ATSDR and EPA to compile the list. In that notice, the agencies solicited public comment on the approach adopted for evaluating and ranking hazardous substances found at NPL sites and announced the intention to refine the listing process in response to these comments, as well as the ongoing efforts by the agencies to improve the listing process.

A second priority list of 100 additional substances was published on October 20, 1988 (53 FR 41280), and the revised procedure used to prepare the second priority list was summarized. For the most part, the same procedure was used to generate the third and fourth lists of 25 substances each (54 FR 43619, October 26, 1989, and 55 FR 42067, October 17, 1990).

The previous priority lists of hazardous substances were based on the most comprehensive and relevant information available when the lists were developed. More comprehensive sources of information for the frequency of occurrence of substances at NPL sites and the potential for human exposure at these sites have become available since publication of the first priority list in 1987. The approach described in this notice will be used to reevaluate the 250 substances included on the previous priority lists and will be used to identify at least 25 additional substances. A revised priority list of 275 hazardous substances will subsequently be published in the **Federal Register**.

The current approach proposed for use in generating the revised priority list of 275 hazardous substances is summarized below. With this notice, the agencies solicit comments from the public on this approach; such comments should be submitted in accordance with the instructions provided in this notice. The agencies will continue to seek improvements in the listing process as future revisions of the list are prepared. All comments previously received are in the public file. Descriptions of the previous listing methodologies are contained in the **Federal Register** citations provided above and in support documents which have been placed in the public file and are available for review (see section IV of this notice).

II. Methodology for Identifying Substances for the Revised Priority List

A. General Approach Taken by ATSDR and EPA

The approach used by ATSDR and EPA to generate the revised priority list of hazardous substances is a modification of the approaches used for the previous lists. The modifications reflect efforts to: (1) Improve data acquisition for substances on the previous lists, and (2) adapt the method to include data sources that provide a more direct indication of potential exposure to substances found at NPL sites. The hazardous substances to be considered for inclusion in the revised priority list will be drawn from an ATSDR list of at least 700 hazardous substances with documented evidence of occurrence at one or more NPL sites. ATSDR and EPA will establish the priority of these substances based on the following three criteria for determining the degree to which each substance poses a potential human health risk: (1) Frequency of occurrence at NPL sites, (2) toxicity, and (3) potential for human exposure to the substance. These criteria meet the requirements of section 104(i)(2) of CERCLA, as amended, and reflect the general practice of defining human health risk in terms of the toxicity and human exposure potential of a substance.

B. Selection of a Data Source for the Frequency-of-Occurrence Criterion

ATSDR and EPA have selected ATSDR's HAZDAT database as the source of data on frequency of occurrence of substances at NPL hazardous waste sites or facilities. The HAZDAT system is the scientific and administrative database developed by ATSDR as a repository for information on hazardous substances found at NPL and non-NPL waste sites or emergency events and on the potential health effects of hazardous substances on human populations. The sources of HAZDAT site-specific information include ATSDR health assessments, health consultations, and other site-specific documents submitted to ATSDR by EPA, state agencies, and other

parties. HAZDAT has information on approximately 1300 sites that have been proposed for, listed on, or delisted from the NPL. Furthermore, the HAZDAT database contains information on substances that have been identified at sites but are currently not included in EPA's Contract Laboratory Program databases. HAZDAT contains information on substances in groundwater, surface water, leachate, soil, sludge, sediment, air, soil gas, biota, human tissues, and waste materials or containers.

C. Determination of the Toxicity Component of the Ranking Methodology

For several reasons, ATSDR and EPA will continue to use the Reportable Quantity (RQ) approach as the toxicity hazard scoring system. It provides the most complete characterization of toxicity of all hazard scoring systems reviewed by the two agencies; other schemes were most limited in either the consideration of different types of toxic effects, severity of effects, or potency. In addition, toxicity data used in the RQ approach are derived from primary peer-reviewed literature, and RQs have already been established for the majority of substances frequently detected at hazardous waste sites. Moreover, the determination of RQ health effect values utilizes weight-of-evidence considerations in the evaluation of data.

The reportable quantity ranking scheme was developed by EPA to set RQs for hazardous substances as required by CERCLA. Under CERCLA section 103(a), any person in charge of a vessel or facility from which a hazardous substance has been released in a quantity that equals or exceeds its RQ must immediately notify the National Response Center and state and local response authorities of the release. RQs are developed for individual chemicals and waste streams that have already been designated under CERCLA section 101(14) as hazardous substances.

Each CERCLA hazardous substance is assigned to one of five tiered RQ categories (1, 10, 100, 1000, and 5000 pounds) based on chronic toxicity, acute toxicity, carcinogenicity, aquatic toxicity, and ignitability and reactivity. RQs are determined for each criterion separately, and the lowest of these is selected as the RQ for the substance. RQ methodology will be applied for those candidate substances which lack final CERCLA RQs to establish a toxicity score. The RQ scoring scheme is described in several **Federal Register** documents (50 FR 13456, April 4, 1985; 51 FR 34534, September 29, 1986; and 52 FR 8140, March 16, 1987).

D. Determination of the Potential for Human Exposure Component of the Ranking Methodology

In the approach for the revised priority list, ATSDR and EPA have identified the most useful and directly relevant data to assess the potential for human exposure to hazardous substances at NPL sites. The exposure component will be based on the following information.

(1) Concentrations of the Substances in Environmental Media

To provide a means of ranking substances based on concentration data, the following formula for calculating a relative source contribution (SC) will be used:

$$SC = \frac{(\bar{C}_a A_a) + (\bar{C}_w A_w) + (\bar{C}_s A_s)}{RQ}$$

Where C_x = mean concentration of the substance in a particular environmental media (a = air, w = water, s = soil); A_x = standard exposure assumption for the particular environmental media to calculate the potential daily dose to humans (e.g., 2 liters drinking water consumed per day); and RQ = the reportable quantity for the substance. This factor will assist in distinguishing between those substances that occur at low concentrations but are highly toxic and those substances that occur at higher concentrations but are relatively less toxic. The HAZDAT system will be the primary source of the concentration data.

(2) Exposure Status of Populations

Information concerning documented exposure or potential exposure to a particular substance or to environmental media in which a substance is found will be used in the exposure component. HAZDAT provides information on exposure or potential exposure to specific substances and to media, such as drinking water. For substances lacking HAZDAT information, the National Priorities List Technical Database (NPLT) may be used to provide information on exposure to substances or environmental media.

(3) Populations Surrounding NPL Sites

For substances that lack concentration and exposure status data, data on populations surrounding sites at which the substance is found will be used as a factor in the potential for human exposure component. While ATSDR and EPA recognize that this is an indirect indication of the potential for human exposure to a substance, consideration of the size of the population potentially impacted is relevant to the establishment of priority rank. Sources of population data include HAZDAT (estimates of exposed and potentially exposed populations), EPA's NPLT (estimates of populations by site and by media), and EPA's ACCESS (1988 population data by site).

III. Generation of the Revised Priority List

Using the data sources described in this notice, ATSDR and EPA will rank the hazard potential of each candidate substance. A revised priority list of at least 275 substances that will be the subject of toxicological profiles and subsequent identification of priority data needs will then be published in the **Federal Register** on or before October 17, 1991.

IV. Administrative Record

ATSDR and EPA are establishing a single administrative record entitled ATSDR–35 for materials pertaining to this notice. All materials received as a result of this notice will be included in the public file which is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, except Federal legal holidays, at the Agency for Toxic Substances and Disease Registry, Building 33, Executive Park Drive, Atlanta, Georgia.

Dated: June 11, 1991.

For the Agency for Toxic Substances and Disease Registry.

Walter R. Dowdle,

Acting Administrator, Agency for Toxic Substances and Disease Registry.

Dated: June 11, 1991.

For the Environmental Protection Agency.

Victor J. Kimm,

Deputy Assistant Administrator, Office of Pesticides and Toxic Substances, Environmental Protection Agency.

[FR Doc. 91–15353 Filed 6–26–91; 8:45 am]

BILLING CODE 4160–70–M

Alcohol, Drug Abuse, and Mental Health Administration

Advisory Committee Meeting in July

AGENCY: Alcohol, Drug Abuse, and Mental Health Administration.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of the forthcoming meeting of an agency advisory committee in the month of July 1991.

The meeting of the Extramural Science Advisory Board, NIMH, will

include a comprehensive overview and discussion of the Institute's extramural research portfolio. The meeting will be open and attendance by the public will be limited to space available.

Notice of this meeting is required under the Federal Advisory Committee Act, Public Law 92–463.

* * * * *

Committee Name: Extramural Science Advisory Board, NIMH.

Meeting Date(s): July 22–23, 1991.

Place: National Institutes of Health Building 31, Conference Room 6 Bethesda, MD.

Open: July 22–23, 8:30 a.m.–5 p.m.

Contact: Tony Pollitt, room 17C–26, Parklawn Building, Telephone (301) 443–3175.

Substantive information, meeting summary, and roster of committee members may be obtained from Ms. Joanna Kieffer, NIMH Committee Management Officer, room 9–105, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857 (Telephone 301–443–4333).

Dated: June 21, 1991.

Peggy W. Cockrill,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 91–15365 Filed 6–26–91; 8:45 am]

BILLING CODE 4160–20–M

Centers for Disease Control

[Program Announcement Number 141]

Identification and Prevention of Air Pollutants and Other Environmental Determinants of Asthma Among Minority Children in Urban Areas; Availability of Fund for Fiscal Year 1991

Introduction

The Centers for Disease Control (CDC) announces that cooperative agreement applications are being accepted for a demonstration project dealing with the Identification and Prevention of Air Pollutants and other Environmental Risk Factors for Asthma Among Minority Children in Urban Areas. The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority areas of Environmental Health and Diabetes and Chronic Disabling Conditions. (For ordering a copy of Health People 2000, see the Section Where to Obtain Additional Information.)

Authority: This program is authorized under section 317 of the Public Health Service Act, as amended (42 U.S.C. 247b). Program regulations are set forth in Title 42, U.S. Code to Federal Regulations, part 51b.

Eligible Applicants

Eligible applicants are state health departments of other state agencies or departments deemed most appropriate to lead, coordinate, and conduct this demonstration project, and agencies or units of local governments that serve a metropolitan population which includes at least 75,000 black or other minority children under age 15. This eligibility includes health departments or other official organization authority (agency or instrumentality) of the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

Only one application from an official agency will be accepted from each state. If an agency applying for funds is other than the official state health department, written concurrence by the state health department must be provided.

Eligible applicants may enter into contracts and consortia agreements and understanding as necessary to meet the requirements of the program and strengthen the overall application. Since one objective of this cooperative agreement is to demonstrate agency capability, no more than 20% of the total direct costs can to used for contracts, consortia agreements, or understandings with other parties. The intent to use such mechanisms must be stated in the application and the nature and scope of work of these mechanisms requires the approval of CDC.

Availability of Funds

Approxmately $120,000 is available in Fiscal Year 1991 to fund one demonstration project with a project period of up to three years. The award will begin on or about September 30, 1991, for a 12-month budget period. Funding for future years depends on availability of funds and demonstrated progress. Funding estimates may vary and are subject to change. Successful completion of epidemiologic studies and the design of an intervention program does not assure continued funding for program implementation.

Funds may not be expended for medical care and treatment or environmental remediation of air pollution sources.

Purpose

The purpose of this demonstration project is to identify environmental risk factors for asthma exacerbations which could then form the basis for effective prevention strategies.

Minority children have been targeted because asthma is more common in children than in adults, and hospitalizations from asthma is twice as prevalent among blacks than whites. The specific objectives are:

A. To identify specific environmental risk factors, including air pollutants and other environmental determinants, which may be associated with asthma exacerbations among minority children, estimate exposure to these risk factors, and measure the strength of the associations between these risk factors and asthma morbidity, based on epidemiologic studies. The project could include surveilliance for hospitalizations or emergency room visits, followed by a case-control or cohort study of hypothesized risk factors and asthma occurrence.

B. To establish priorities for education and other prevention efforts aimed at reducing asthma morbidity among urban minority children, based on the results of epidemiologic studies conducted under this project.

C. To design an intervention aimed at reducing exposures to one or more identified risk factors, which shall include air pollutants such as ozone, sulfur dioxide, acid aerosols, particulate, exposures to irritant chemicals resulting from industrial emissions or the use of consumer products, or other environmental factors of interest in the study area.

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient shall be responsible for conducting activities under A. below and CDC will be responsible for conducting activities under B. below.

A. Recipient Activities

1. Identify a study area which is urban and where black or other minority children under age 15 number at least 75,000.

2. Design a protocol and implement an epidemiologic study of children served by one or more major medical facilities (public or private) in the study area, to identify the primary environmental risk factors for asthma.

3. Take baseline measures of exposures to specific environmental risk factors among children with asthma served by these facilities.

4. Develop a trial intervention program (including educational interventions) within the target population to reduce exposure to one or more of the identified risk factors.

5. Develop a time-phased evaluation plan so the progress of the program objectives can be clearly measured.

6. Evaluate the experiences of the project and prepare a final report of the project.

B. Centers for Disease Control Activities

1. Collaborate with the recipient in all stages of the project, including the design of the protocol and data collection instruments, data analysis, interpretation of results, and preparation of written reports.

2. Provide on-site programmatic technical assistance in planning, implementing, and evaluating ongoing and innovative program activities.

3. Participate in improving program performance through consultation based on information and activities of other projects.

Evaluation Criteria

Applications will be reviewed and evaluated according to the following criteria:

A. Evidence of an Asthma Problem among Urban Minority Children and an Air Pollution Problem (30%)

The applicant's ability to identify populations and communities at potentially high risk of environmentally-related asthma, as defined by census figures, data from local hospitals or other medical facilities, demographic data, environmental data, or other existing information resources.

B. Understanding the Problem (10%)

The quality and consistency of the applicant's proposal with respect to the asthma problem and program needs and purposes of the project. This specifically includes the public health importance of the problem as reflected by reducing the prevalence, severity, and economic burden for asthma.

C. Technical Approach (25%)

The quality of the applicant's plan for conducting program activities and the potential effectiveness of the proposed methods in meeting its objectives. The adequacy of the program design includes the extent to which the evaluation plan can be used to effectively measure progress towards the stated objectives.

D. Program personnel (20%)

The extent to which the proposal has described (a) the qualifications and commitment of the applicant, (b) detailed allocations of time and effort of staff devoted to the project, (c) information on how the applicant will develop, implement and administer the program, and (d) the qualifications of the support staff.

E. Collaboration (15%)

The applicant should demonstrate the ability to collaborate with political subdivisions of the state, agencies with pollution and related environmental data necessary for the conduct of the project, and/or local medical facilities. The degree of commitment and cooperation of collaborating parties (as evidenced by letters detailing the specific nature and extent of the involvement).

In addition, consideration will also be given to the extent that the budget request and proposed use of project funds are appropriate and reasonable.

Other Requirements

Projects involving the collection of information from 10 or more individuals and funded by cooperative agreement will be subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Executive Order 12372 Review

The intergovernmental review requirements of Executive Order 12372, as implemented by DHHS regulations in 45 CFR 100, are applicable to this program. Executive Order 12372 sets up a system for state and local government review of proposed Federal assistance applications. Applicants should contact their state Single Point of Contact (SPOCs) as early as possible to alert them to the prospective applications and receive any necessary instructions on the state process. For proposed projects serving more than one state, the applicant is advised to contact the SPOC of each affected state. A current list of SPOCs is included in the application kit. The due date for state process recommendations is 30 days after the application deadline date for new and competing continuation awards. The granting agency does not guarantee to accommodate or explain for state process recommendations it receives after that date.

Catalog of Federal Domestic Assistance Number

[The Catalog of Federal Assistance Number is 93.283.]

Application Submission and Deadline

Applicants should follow the guidance provided in PHS form 5161–1 (Revised 01/89) in preparing grant applications. The original and two copies must be submitted on or before August 1, 1991, to Henry S. Cassell, III, Grants Management Officer, Centers for Disease Control, Grants Management Branch, Procurement and Grants Office, 255 East Paces Ferry Road, NE., room 300, Atlanta, GA 30305.

1. Deadline

Applications shall be considered as meeting the deadline if they are either:

A. Received on or before the deadline date, or

B. Sent on or before the deadline date and received in time for submission for the review process. Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.

2. Late Applications

Applications which do not meet the criteria in 1.A. or 1.B. above are considered late applications and will be returned to the applicant.

Where to Obtain Additional Information

A complete program description, information on application procedures, application package, and business management technical assistance may be obtained from Lisa Tamaroff, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., room 300, Mail Stop E–14, Atlanta, Georgia, 30305, Telephone: (404) 842–6630.

Please refer to Announcement Number 141 when requesting information on this program.

Programmatic technical assistance may be obtained from James Rifenburg, Center for Environmental Health and Injury Control, Division of Environmental Hazards and Health Effects, Air Pollution and Respiratory Health Activity, Centers for Disease Control, 1600 Clifton Road, Mail Stop F–28, Atlanta, Georgia, 30333, Telephone (404) 488–4682 or FTS 236–4682.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report, Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325. (Telephone (202) 783–3238).

Dated: June 20, 1991.

Ladene H. Newton,

Acting Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 91–15334 Filed 6–26–91; 8:45 am]

BILLING CODE 4160–18–M

[Announcement Number 139]

Availability of Funds for Fiscal Year 1991 an Investigation to Identify Strategies for Prevention of Childhood Deaths From Diarrhea

Introduction

The Centers for Disease Control (CDC) announces a program for new competitive cooperative agreement applications for Fiscal Year 1991 to provide assistance in examining the possibilities of preventing childhood deaths from diarrhea and for determining interventions most likely to have a positive impact. Surveillance activity will begin with health department death certificate reviews to identify all children who have died from diarrhea over a 3-year period. Investigations will be directed toward identifying where each child died, medical factors and issues relating to delivery of care which influenced the outcome, and any interventions that may have prevented the death. The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of maternal and infant health. (For ordering a copy of Healthy People 2000, see the section Where to Obtain Additional Information).

Authority

This program is authorized under section 301(a) of the Public Health Service Act (42 U.S.C. 241(a), as amended, and section 317(k)(3) of the Public Health Service Act (42 U.S.C. 247b (k)(3)).

Eligible Applicants

Eligible applicants are restricted to the official public health agencies of all states, the District of Columbia, America Samoa, the Commonwealth of Puerto Rico, the Virgin Islands, the Federated States of Micronesia, Guam, the Northern Mariana Islands, the Republic of the Marshall Islands, and the Republic of Palau. No other applications will be accepted. This restriction is based on the requirement that applicants must have access to all medical and death records in their state or areas listed above. In addition, sufficient numbers of events during a given time period are necessary for accurate assessment of deaths due to a specific cause. Therefore, eligible applicants must show evidence of either of the following in children of ages 1 months to 5 years based on National Center for Health Statistics data during the years 1979–1987: diarrheal death rate in excess of 3.00 per 100,000 per year or a total of more than 10 diarrheal deaths per year. Collaboration with schools of public health, specifically the Maternal and Child Health programs, is encouraged.

Availability of Funds

Approximately $188,000 will be available in Fiscal Year 1991 to fund 4–6 new cooperative agreements. The average award is expected to be $37,600, ranging from $31,333 to $47,000. It is expected that the average award will begin on or about September 20, 1991, and will usually be for a 12-month budget period within a 1- to 3-year project period. Funding estimates may vary and are subject to change, depending upon the availability of funds. Continuation awards within the project period will be made on the basis of satisfactory progress and availability of funds.

Purpose

The purpose of these awards is to provide assistance in examining the possibility of preventing deaths from diarrhea and to determine the interventions most likely to have an impact. Surveillance activity will be initiated through eligible public health agencies to identify all children who die from diarrhea. During the project period, each death would be investigated in depth to determine the location of the care which influenced the outcome, and what interventions, if any, might have prevented the death. This project would assist in providing specific recommendations to prevent diarrheal deaths in American children, and would leave in place a surveillance system to monitor their occurrence over time and assess the impact of proposed interventions.

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient shall be responsible for conducting specified activities under section A. below, and CDC shall be responsible for conducting activities under Section B. The applications should be presented in a manner that demonstrates the applicant's ability to address the proposed activities in a collaborative manner with CDC.

A. Recipient Activities

1. Demonstrate ability to identify and access target populations.

2. Describe their respective organizational structures and provide organizational charts.

3. Participate in a planning and implementation meeting.

4. Implement methods, techniques, and approaches for dealing with questions surrounding the surveillance of diarrheal deaths in children ages 1 month through 5 years.

5. Develop data collection procedures and forms.

6. Review death certificates as they are received by the state or area and identify death of children under 5 years of age for whom diarrhea, gastroenteritis, or enterocolitis was listed anywhere on the certificate. All deaths occurring from September 1990 to September 1991 will be identified retrospectively and investigated in the fall of 1991. From September 1991 to September 1993, diarrheal deaths should be identified at quarterly intervals and investigated on an ongoing basis. To assure consistency, this review should begin immediately after the award of assistance funds.

7. Perform hospital and clinical chart reviews. Conduct analyses of hospital chart reviews and summarize as case reports.

8. Conduct standardized and open interviews with parents and other caretakers of children who have recently died.

9. Maintain confidentiality of data.

10. Analyze and present findings of data which identify all suspected childhood diarrheal deaths in the age group from 1 month to 5 years occurring in each state and which identify the circumstances of death.

B. CDC Activities

1. In addition to financial support, CDC will collaborate with the recipient in the design and development of project protocols, data collection forms, and data management systems.

2. Conduct a planning meeting of all recipients.

3. Provide coordination among recipients for each project to insure comparability of core data.

4. Aggregate data from recipients and assist in the presentation of findings.

Review and Evaluation Criteria

Applications will be reviewed and evaluated according to the following criteria:

A. The applicant's understanding of the purpose of the proposed activity and the feasibility of accomplishing the outcomes described.

B. The extent to which background information and other data demonstrate

that the applicant has the appropriate organizational structure, administrative support, and ability to access appropriate target populations or study objects.

C. The degree to which the proposed objectives are: consistent with the defined purpose of this program, specific, measurable, and time-phased.

D. The degree to which program plans will be able to achieve the objectives, and the quality of the methods and instruments to be used.

E. The extent to which background information and other data demonstrate the need for this project.

F. The qualifications, including training and experience, of project personnel, and the projected level of effort by each toward accomplishment of the proposed activities.

G. The extent to which the budget is reasonable, clearly justified, and consistent with the intended use of cooperative agreement funds.

H. The ability to maintain confidentiality.

Other Requirements

Projects involving the collection of information from 10 or more individuals and funded by cooperative agreement will be subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Executive Order 12372 Review

Applications are subject to Intergovernmental Review of Federal Programs as governed by Executive Order 12372. E.O. 12372 sets up a system for state and local government review of proposed Federal assistance applications. Applicants (other than Federally-recognized Indian tribal governments) should contact their state Single Point of Contact (SPOCs) as early as possible to alert them to the prospective applications and receive any necessary instructions on the state process. For proposed projects serving more than one state, the applicant is advised to contact the SPOC of each affected state. A current list of SPOCs is included in the application kit. The due date for state process recommendations will be 30 days after the application deadline date for new and competing continuation awards. (A waiver for the 60 day requirement has been requested.) If SPOCs have any state process recommendations on applications submitted to CDC, they should forward them to Candice Nowicki, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 225 East Paces Ferry Road, NE., Atlanta, Georgia 30305. The granting agency does not guarantee to "accommodate or explain" for state process recommendations it receives after that date.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number assigned to this program is 93.283.

Application Submission and Deadline

The original and two copies of the application (Form PHS–5161–1) must be submitted to Candice Nowicki, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., room 300, Mailstop E14, Atlanta, Georgia 30305, on or before August 6, 1991.

A. Deadline

Applications shall be considered as meeting the deadline if they are either: 1. Received on or before the deadline date, or

2. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service.) Private metered postmarks will not be accepted as proof of timely mailing.

B. Late applications

Applications which do not meet criteria A.1. or A.2. above are considered late applications. Late applicaitions will not be considered in the current competition and will be returned to the applicant.

Where to Obtain Additional Information

A complete program description, information on application procedures, application package, and business management technical assistance may be obtained from Leah D. Simpson, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., room 300, Mailstop E–14, Atlanta, Georgia 30305, telephone (404) 842–6594 or FTS (404) 236–6594.

Programmatic technical assistance may be obtained from G. William Gary, M.P.H., Dr.P.H., or Caryn Bern, M.D., Division of Viral and Rickettsial Diseases, Center for Infectious Diseases, Centers for Disease Control, 1600 Clifton Road NE, Mailstop G–04, Atlanta, Georgia 30333, telephone (404) 639–3607 or 639–2395, or FTS (404) 236–3607 or 236–2395.

Please refer to Announcement Number 139 when requesting information and submitting an application.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report; Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, Telephone (202) 783–3238.

Dated: June 21, 1991.

Robert L. Foster,

Acting Director, Office of Program Support Centers for Disease Control.

[FR Doc. 91–15291 Filed 6–26–91; 8:45 am]

BILLING CODE 4160–18–M

[Announcement 131]

Tuberculosis (TB)/Human Immunodeficiency Virus (HIV) Risk Factor Data and HIV Serostatus Surveillance

Introduction

The Centers for Disease Control (CDC) announces the availability of cooperative agreement funds in fiscal year 1991 to conduct TB/HIV Risk Factor Data and HIV Serostatus Surveillance.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority areas of HIV Infection and Immunization and Infectious Diseases. (For ordering a copy of Healthy People 2000, see the Section Where to Obtain Additional Information.)

Authority: This program is authorized under the Public Health Service Act, section 301(a) (42 U.S.C. 241(a)), as amended; and section 317(k) (42 U.S.C. 247b(k)), as amended.

Eligibility

Eligible applicants for this program are current recipients of Tuberculosis Control or Tuberculosis Human Immunodeficiency Virus cooperative agreements. To ensure statistical significance in identifying factors that are most closely related to co-infection with TB and HIV and due to resource limitations, only areas that have reported 300 or more AIDs cases and at least 100 TB cases for 1989 are eligible.

Availability of Funds

Approximately $450,000 is available for Fiscal Year 1991, to fund approximately 15 projects. Awards are

expected to range from $20,000 to $75,000. The awards will begin on or about September 1, 1991, for a 12-month budget period within a 4-year project period. Funding estimates may very and are subject to change. Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

Purpose

If TB is to be eliminated in the United States as outlined in the *Department's Strategic Plan for the Elimination of Tubeculosis in the United States,* a concerted effort must be undertaken to find and treat TB cases. Public Law 101–368 authorizes prevention, control, and elimination of tuberculosis.

The purpose of this program is to assist TB programs in improving their surveillance systems for TB in relation to HIV infection. The specific goals are: (A) To identify TB patients co-infected with HIV and ensure that they receive appropriate therapy and case management; (B) to determine and monitor trends in the number and proportion of TB cases with underlying HIV infection; (C) to determine and monitor trends in the descriptive epidemiology and clinical characteristics of persons with TB disease and HIV infection; and (D) to determine the prevalance of substance abuse among TB patients.

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient shall be responsible for conducting activities under A (below), and CDC will be responsible for conducting activities under B (below).

A. Recipient Activities

1. Identify and provide HIV counseling and antibody testing to all patients with suspected or confirmed TB.

2. Monitor trends and refer all infected contacts of TB patients for HIV risk factor evaluation and ensure that HIV counseling and antibody testing is provided for those with behaviors associated with an increased risk of HIV infection. TB/HIV Risks include (A) drug use; (B) alcohol use; (C) sex between two men; (D) hemophilia; (E) receipt of blood or blood products between 1978–85; (F) heterosexual activity with multiple partners; (G) sex with a man who has sex with another man; (H) sex with a drug user; (I) sex with an HIV-infected person; (J) sex with a person with hemophilia; and (K) sex from drugs/money.

3. Collect data on all patients with suspected or confirmed TB. The data will contain demographic and clinical information related to TB and HIV, questions on substance abuse and HIV transmission risk factors, HIV test results, and information on whether the patient is eventually verified to have TB (according to CDC Report of Verified Case of Tuberculosis (RVCT) criteria).

4. Ensure the confidentiality and physical security of HIV-specific information.

5. Analyze, in collaboration with CDC, risk factor information on all patients (without personal identifiers).

B. CDC Activities

1. Collaborate and consult in the development and implementation of strategies and protocols.

2. Provide up to date scientific information regarding methods of risk reduction for HIV transmission and current recommended TB diagnostic and treatment regimens.

3. Assist in data management and analysis.

4. Assist in the transfer of information and methods developed in these projects to other TB elimination programs.

Review and Evaluation Criteria

Applications will be reviewed and evaluated individually according to the following criteria:

A. The ability of the applicant to describe the problem of tuberculosis and HIV infection in its area including:

1. The number of tuberculosis cases reported annually from the area;

2. The number of AIDS cases reported annually from the area; and,

3. The number of persons with tuberculosis who have AIDS. (Maximum 25 points)

B. The quality of the proposed plan to meet the objectives of the project, including:

1. Identifying TB patients co-infected with HIV and ensuring that they recieve appropriate therapy and case management;

2. Determining and monitoring trends in the number and proportion of TRB cases with underlying HIV infection;

3. Determining and monitoring trends in the demographic and clinical characteristics of persons with TB disease and HIV infection; and,

4. Determining the prevalence of substance abuse among TB patients. (Maximum 25 points)

C. The extent to which realistic short-term and long-term objectives are measurable, time-phased, and related to recipient activities. (Maximum 25 points)

D. The overall effectiveness of the applicant's proposed activities and the methods for meeting the stated objectives. (Maximum 15 points)

E. The adequacy of plans to evaluate progress in implementing methods and achieving objectives. (Maximum 10 points)

Consideration will also be given to the extent the budget request is clearly explained, adequately justified, reasonable, consistent with the intended use of funds, and the extent to which the applicant is contributing its own resources to HIV/AIDS and TB prevention activities.

Proposals with budgets larger than can reasonably be funded under this announcement may be returned to the applicant without review.

Other Requirements

Recipients must comply with the document titled Content of Aids-Related Written Materials, Pictorials, Audiovisuals, Questionnaires, Survey Instruments, and Educational Sessions (January 1991).

Applicants must have in place systems to ensure the confidentiality of all patient records. Assurance of compliance with regulations regarding protection of human subjects will be required.

Projects involving the collection of information from 10 or more respondents and funded by cooperative agreement may be subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Executive Order 12372

Applications are subject to Intergovernmental Review of Federal Programs as governed by Executive Order 12372. Executive Order 12372 sets up a system for state and local government review of proposed Federal assistance applications. Applicants (other than Federally-recognized Indian tribal governments) should contact their state Single Point of Contact (SPOCs) as early as possible to alert them to the prospective applications and receive any necessary instructions on the state process. For proposed projects serving more than one state, the applicant is advised to contact the SPOC of each affected state. A current list of SPOCs is included in the application kit. If SPOCs have any state process recommendations on applications submitted to CDC, they should forward them to Edwin L. Dixon, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., Atlanta, Georgia 30305 no later than September 1, 1991. The granting agency does not guarantee to accommodate or

explain for state process recommendations it receives after that date.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number is 93.118, Acquired Immunodeficiency Syndrome (AIDS) activities.

Application Submission and Deadline

The original and two (2) copies of the application (PHS 5161-1) must be submitted to Edwin L. Dixon, Grants Management Officer, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., room 300, Atlanta, Georgia 30305 on or before August 1, 1991.

A. Deadline. Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date, or

2. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be accepted as proof of timely mailing.)

B. Late applications which do not meet the criteria in A.1. or A.2. are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where to Obtain Additional Information

A complete program description, information or application procedures, an application package, and business management technical assistance may be obtained from Victoria Westberg, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., room 300, Atlanta, GA 30305, (404) 842-6640, or FTS 236-6640. Please refer to Announcement Number 131 when requesting information and submitting any application on the Request for Assistance.

Programmatic technical assistance may be obtained from Harry Stern and Walter Ihle, Division of Tuberculosis Elimination, Center for Prevention Services, Centers for Disease Control, Atlanta, GA, (404) 639-2501 or FTS 236-2501.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017-001-00474-0) or Healthy People 2000 (Summary Report; Stock No. 017-001-00473-1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402-9325 (Telephone (202) 783-3238).

Dated: June 20, 1991.

Ladene H. Newton,

Acting Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 91-15336 Filed 6-26-91; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 91N-0233]

Drug Export; Multiscreen (HBsAg, HIV-1/HIV-2)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Abbott Laboratories has filed an application requesting approval for the export of the biological product Multiscreen (HBsAg, HIV-1/HIV-2) to Belgium, Denmark, Finland, Iceland, Ireland, Luxembourg, The Netherlands, Norway, Portugal, Sweden, and The United Kingdom.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human biological products under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Carl J. Chancey, Center for Biologics Evaluation and Research (HFB-124), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8191.

SUPPLEMENTARY INFORMATION: The Drug Export Amendments Act of 1986 (Pub. L. 99-660) (section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382)) provide that FDA may approve applications for the export of biological products that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Abbott Laboratories, Diagnostics Division, Abbott Park, IL 60064, has filed an application requesting approval for the export of the biological product Multiscreen (HBsAg, HIV-1/HIV-2) to Belgium, Denmark, Finland, Iceland, Ireland, Luxembourg, The Netherlands, Norway, Portugal, Sweden, and The United Kingdom. Abbott Multiscreen is an *In Vitro* Enzyme Immunoassay for the simultaneous detection of Hepatitis B Surface Antigen (HBsAg) and/or Antibodies to Human Immunodeficiency Virus Type 1 and/or Type 2 (HIV-1/HIV-2) in human serum or plasma. The application was received and filed in the Center for Biologics Evaluation and Research on April 26, 1991, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by July 8, 1991, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (section 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Biologics Evaluation and Research (21 CFR 5.44).

Dated: June 18, 1991.

Thomas S. Bozzo,

Director, Office of Compliance, Center for Biologics Evaluation and Research.

[FR Doc. 91-15364 Filed 6-26-91; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 90F-0311]

Nissin Chemical Industry Co., Ltd.; Withdrawal of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the

withdrawal, without projudice to a future filing, of a food additive petition (FAP OB4224) proposing that the food additive regulations be amended to provide for the safe use of vinyl chloride/vinyl acetate/maleic anhydride/glycidyl methacrylate copolymer as a component of coatings for articles that will contact food.

FOR FURTHER INFORMATION CONTACT: Vir Anand, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 19, 1990 (55 FR 42484), FDA published a notice that it had filed a petition (FAP OB4224) from Nissin Chemical Industry Co., Ltd., c/o 1730 Rhode Island Ave. NW., Washington, DC 20036, that proposed to amend § 175.300 Resinous and polymeric coatings (21 CFR 175.300) to provide for the safe use of vinyl chloride/vinyl acetate/maleic anhydride/glycidyl methacrylate copolymer, as a component of coatings that will contact food. Nissin Chemical Industry Co., Ltd., has now withdrawn the petition without prejudice to a future filing (21 CFR 171.7).

Dated: June 19, 1991.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 91–15296 Filed 6–26–91; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–130–4410–08; GP1–267]

Spokane District, WA; West Side State Exchange; Environmental Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Comment Period Extension for: Notice of Availability of The Finding of No Significant Impact on the Final Planning Analysis for Spokane District West Side State Exchange.

SUMMARY: Public notice was given in the **Federal Register** on May 29, 1991, Volume 56, No. 103, on page 24200 of the Notice of Availability of the Finding of No Significant Impact on the Final Planning Analysis for Spokane District West Side State Exchange

The comment period on this Planning Analysis that would have closed on June 29, 1991, is hereby extended for 30 days commencing from the publication of this Notice. This extension would allow sufficient time for public review of this action.

FOR FURTHER INFORMATION CONTACT:

Joseph K. Buesing, District Manager, Spokane District Office, East 4217 Main Avenue, Spokane. WA 99202.

Or

James F. Fisher, Area Manager, Wenatchee Resource Area Office, 1133 North Western Avenue, Wenatchee, WA 98801.

Copies of this Planning Analysis will be made available for review at the following offices and libraries:

U.S. Bureau of Land Management, Spokane District Office, East 4217 Main Avenue, Spokane, WA 99202.

U.S. Bureau of Land Management, Wenatchee Resource Area Office, 1133 North Western Avenue, Wenatchee, WA 98801.

Washington State Library, State Library Building, Olympia, WA 98504.

San Juan County Court House Annex Library, 135 Rhone Street, Friday Harbor, WA 98250.

A limited supply of copies of the Planning Analysis are available upon request to the Spokane District Manager or the Wenatchee Resource Area Manager.

Thank you.

Dated: June 21, 1991.

Pearl E. Lee,

Acting District Manager.

[FR Doc. 91–15315 Filed 6–26–91; 8:45 am]

BILLING CODE 4310–33–M

Coos Bay District; Advisory Council Meeting

[OR120–6310–02: GP1–263]

AGENCY: Bureau of Land Management, Interior.

ACTION: Meeting of Coos Bay District Advisory Council.

SUMMARY: Notice is hereby given in accordance with Public Law 94–579 and 43 CFR part 1780 that a meeting of the Coos Bay District Advisory Council will be held on Wednesday, August 28, 1991, beginning at 1 p.m. The meeting will be held in the Coos Bay District Office, 1300 Airport Lane, North Bend, OR.

AGENDA: The agenda for the meeting will include:

1. Discussion of the RMP schedule and update of the current status of the planning effort.

2. Discussion of the 1991 and 1992 timber sale plans and conferencing with the U.S. Fish and Wildlife Service.

3. Discussion of Fish & Wildlife 2000 and Recreation 2000 and new initiatives on the Coos Bay District.

4. Arrangements for the next meeting.

5. Discussion of Land and Water Conservation Funds (LWLF).

The meeting is open to the public and news media. Interested persons may make oral statements to the council between 1:30 p.m. and 2 p.m. on Wednesday, August 28, or file written statements for the council's consideration. Anyone wishing to make an oral statement must notify the District Manager by close of business on Wednesday, August 14, 1991 (Telephone 503–756–0100).

ADDRESS: Bureau of Land Management, Coos Bay District Office, 1300 Airport Lane, North Bend, OR 97459.

Minutes of the meeting will be maintained at the District office and made available during regular business hours (7:45 a.m. to 4:30 p.m.) for public inspection or reproduction at the cost of duplication.

Dated: June 20, 1991.

Melvin E. Chase,

District Manager.

[FR Doc. 91–15316 Filed 6–26–91; 8:45 am]

BILLING CODE 4310–33–M

[OR–100–00–6310–02; G1–264]

Roseburg District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The District Advisory Council for the Bureau of Land Management, Roseburg District will meet for a tour July 29, 1991, starting from the Roseburg District Office visitors' parking lot at 8 a.m. The itinerary includes a fisheries enhancement project on Wolf Creek and one or more stops to discuss 1991 cone collection activities. The group will stop at the Tyee Recreation Site at approximately 12 p.m. to eat lunch. Afterwards, the Council will be updated on the District timber program and the Bureau's Watchable Wildlife and Back Country Byways initiatives. There will be an opportunity for public comments before the Council at 1 p.m.

ADDRESS: Bureau of Land Management, Roseburg District, 777 NW Garden Valley Blvd., Roseburg, OR 97470.

FOR FURTHER INFORMATION CONTACT: Mel Ingeroi, Public Affairs Specialist (503) 672–4491.

SUPPLEMENTARY INFORMATION: Although transportation will not be provided to

the general public, they are welcome to come on the tour. In addition, lunch will be provided only for Council members and BLM employees at a cost to be specified later. Comments for the Council can be mailed to the District Manager prior to the meeting or presented to the Council during the meeting. Summary minutes will be available for public review within 30 days of the meeting.

Dated: June 20, 1991.

Gordon Cheniae,

Acting District Manager.

[FR Doc. 91-15317 Filed 6-26-91; 8:45 am]

BILLING CODE 4310-33-M

[CA-010-01-3110-10-B002; CA 28306]

Realty Action Exchange of Public and Private Lands in San Luis Obispo County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action—CA 28306.

SUMMARY: The following described public land has been determined to be suitable for exchange under section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716):

Mt. Diablo Meridian, California

T.29S., R.14E.
Section 35 S½NE¼ 80 acres (parcel #4)
T.29S., R.15E.
Section 31 SE¼NW¼ 40 acres (parcel #7)
T.30S., R.14E.
Section 1 Lots 22 & 23 83.52 acres (parcel #9)

All mineral rights on the subject public land will be exchanged, along with the surface rights. In exchange for this public land, the Bureau of Land Management (BLM) will acquire an equal value of lands from the Nature Conservancy (TNC) in the Carrizo Plain Natural Area. These lands will be purchased by TNC from willing sellers, will be somewhere within the following sections, and will include surface rights only:

Mt. Diablo Meridian, California

T.30S., R.20E.
Sec. 19 to 22, 25 to 31, and 34 to 36
T.30S., R.21E.
Sec. 23 to 36
T.30S., R.22E.
Sec. 31
T.31S., R.20E.
Sec. 1 to 3, 10 to 13, 15, 17, and 20 to 25
T.31S., R.21E.
Sec. 1 to 4, 6, 7, 10 to 25, 27 to 29, and 32 to 36
T.31S., R.22E.
Sec. 3, 6, 7, and 17 to 21
T.32S., R.20E.
Sec. 19, 26, and 27
T.32S., R.21E.
Sec. 1 to 5, and 10 to 13
T.32S., R.22E.
Sec. 6, 7, 16, 19 to 22, 27 to 33, 35, and 36

San Bernardino Meridian, California

T.12N., R.27W.
Sec. 35
T.12N., R.26W.
Sec. 31, and 33 to 36
T.12N., R.25W.
Sec. 31 to 33, and 36
T.11N., R.27W.
Sec. 1 to 4, and 10 to 14
T.11N., R.26W.
Sec. 1 to 18, 20 to 25, and 36
T.11N., R.25W.
Sec. 3, 6, and 7 to 35
T.11N., R.24W.
Sec. 18 to 20 and 29 to 32
T.10N., R.26W.
Sec. 11 and 12
T.10N., R.25W.
Sec. 1 to 3, 7, 8, 12, and 16

SUPPLEMENTARY INFORMATION: Lands transferred from the United States will be offered for purchase to adjacent landowners by The Nature Conservancy. Lands transferred from the United States will reserve a right-of-way for ditches or canals constructed by the authority of the United States, under the Act of August 30, 1890 (43 U.S.C. 945). Publication of this notice in the **Federal Register** segregates the subject public land from the operation of the public land laws and the mining laws, except for mineral leasing. The segregative effect will end upon issuance of patent or two years from the date of publication in the **Federal Register**, whichever occurs first.

The purpose of the exchange is to acquire a portion of the private lands in the Carrizo Plain Natural Area. This Area will promote the conservation of threatened and endangered species and preserve a representative sample of the historic southern San Joaquin Valley flora and fauna. The ultimate goal for the Natural Area is to acquire approximately 155,000 acres of private land. A secondary purpose of the exchange is to consolidate the BLM lands and reduce the number of scattered, isolated BLM parcels that are difficult to manage. The public interest will be well served by completing the exchange. The exchange will operate under the Cooperative Land Exchange Agreement between BLM and TNC within California, dated August 16, 1990. Under that agreement, BLM and TNC will "pool" offered private land and selected public land throughout California, and convey the lands through exchanges between the BLM and TNC. Values of lands conveyed from the pool will be balanced on a statewide basis at least every two years. Interested parties may submit comments to the Area Manager at the following address until August 12, 1991. For further information contact: Bureau of Land Management, Caliente Resource Area, Attn: Dan Vaughn, 4301 Rosedale Highway, Bakersfield, CA 93308; (805) 861-4236.

Dated: June 4, 1991.

Glenn A. Carpenter,

Caliente Resource Area Manager.

[FR Doc. 91-14085 Filed 6-26-91; 8:45 am]

BILLING CODE 4310-40-M

[G-040-G1-0405-4212-14; OK NM 82739]

Tulsa District Office; Proposed Direct Sale

AGENCY: United States Department of Interior, Bureau of Land Management.

ACTION: Notice of realty action.

SUMMARY: The following described public land has been examined and determined to be suitable for transfer out of Federal ownership by direct sale under the authority of section 203 of the Federal Land Policy and Management Act (FLPMA) of 1976 (90 Stat. 2750; 43 U.S.C. 1713), at not less than the appraised fair market value:

Indian Meridian, Oklahoma

T. 12 N., R. 1 E.,
Sec. 22, lot 6.

Containing a total of 0.98 acres in Oklahoma County.

The land will not be offered for sale until at least 60 days after publication of this notice in the **Federal Register.** The fair market value of the parcel has been determined to be $100.00.

Publication of this notice will segregate the above-described land from all appropriation, under the public land laws including the mining laws, but not from sale under the above-cited statute, for 270 days from the date of publication of this notice, or until title transfer is completed or the segregation is terminated by publication in the **Federal Register,** whichever occurs first.

The subject lands are part of the remaining public land holdings in Oklahoma scattered throughout the state. The lands are being offered for sale since the Bureau of Land Management (BLM) can not economically or feasibly manage the subject lands. No other federal agency or department was interested in managing these lands. The sale is consistent with the Bureau planning for the lands involved and has been discussed with government units and local officials. Direct sale procedures

are appropriate because of the parcels' physical location as being incorporated within Horseshoe Lake and suitable for management by the surrounding owner. Use of direct sale procedures will avoid an inappropriate land ownership pattern. The sale is consistent with the Planning Analysis and Decision Document for Central Oklahoma Land Disposal and the public interest would be served by offering these lands for sale.

The parcel is being offered to Oklahoma Gas and Electric Company, using the direct sale procedures authorized under title 43 CFR 2711.3–3. The terms, conditions, and reservations applicable to the sale are as follows:

1. The grantees will be required to submit a deposit of either cash, certified check, cashier's check, bank draft, money order, or any combination thereof for not less than 30 percent of the appraised value. The remainder of the full appraised price must be submitted prior to the expiration of 180 days from the date of the sale. Failure to submit the remainder of the full appraised price shall result in the cancellation of the sale and the forfeiture of the deposit.

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals. A more detailed description of this reservation which will be incorporated in the patent document, is available for review at this BLM office.

3. Title will be issued by a patent subject to all prior valid existing rights and reservations of record.

4. Title will be issued by a patent with restrictions under Executive Order 11988 (42 CFR 26951 May 25, 1977), for the protection and management of floodplain on the above-described lands.

DATES: Until August 12, 1991, interested parties may submit comments to the District Manager, BLM, Tulsa District Office, 9522H E. 47th Place, Tulsa, Oklahoma 74145. Any adverse comments will be reviewed by the District Manager, who may sustain, vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of Interior.

For Further Information Contact: Jacqueline Gratton, (405) 794–9624.

Dated: June 20, 1991.

Virgil L. Pauli,

Acting District Manager.

[FR Doc. 91–15422 Filed 6–26–91; 8:45 am]

BILLING CODE 4310–FB–M

[WY–940–01–4730–12]

Filing of Plats of Survey: Nebraska/ Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Wyoming State Office, Cheyenne, Wyoming, thirty (30) calendar days from the date of this publication.

Sixth Principal Meridian, Nebraska

T. 24 N., R. 9 E., accepted June 19, 1991
T. 31 N., R. 5 W., accepted June 19, 1991

Sixth Principal Meridan, Wyoming

T. 40 N., R. 70 W., accepted June 19, 1991.
T. 25 N., R. 84 W., accepted June 19, 1991.

If protests against a survey, as shown on any of the above plats, are received prior to the official filing, the filing will be stayed pending consideration of the protest(s). A plat will not be officially filed until after disposition of protests(s) and or appeal(s).

These plats will be placed in the open files of the Wyoming State Office, Bureau of Land Management, 2515 Warren Ave., Cheyenne, Wyoming, and will be available to the public as a matter of information only. Copies of the plats will be made available upon request and prepayment of the reproduction fee of $2.00 per copy. A person or party who wishes to protest a survey must file with the State Director, Bureau of Land Management, Cheyenne, Wyoming, a notice of protest prior to thirty (30) calendar days from the date of this publication. If the protest notice did not include a statement of reasons for the protest, the protestant shall file such a statement with the State Director within thirty (3) calendar days after the notice of protest was filed.

The above-listed plats represent dependent resurveys and subdivisions.

FOR FUTHER INFORMATION CONTACT: Bureau of Land Management, P.O. Box 1828, 2515 Warren Avenue, Cheyenne, Wyoming 82003.

Dated: June 19, 1991.

John P. Lee,

Chief, Branch of Cadastral Survey.

[FR Doc. 91–15319 Filed 6–26–91; 8:45 am]

BILLING CODE 4310–33–M

[OR–942–00–4730–12: GP1–257]

Filing of Plats of Survey: Oregon/ Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Oregon State Office, Portland, Oregon, thirty (30) calendar days from the date of this publication.

Willamette Meridian

Oregon

T. 33 S., R. 5 W., accepted June 4, 1991
T. 18 S., R. 6 W., accepted May 24, 1991
T. 19 S., R. 7 W., accepted June 13, 1991
T. 29 S., R. 10 W., accepted May 23, 1991
T. 30 S., R. 14 W., accepted May 24, 1991
T. 15 S., R. 12 E., accepted June 4, 1991
T. 25 S., R. 13 E., accepted May 23, 1991
T. 39 S., R. 14 E., accepted June 12, 1991

Washington

T. 31 N., R. 7 W., accepted May 31, 1991

If protests against a survey, as shown on any of the above plat(s), are received prior to the date of official filing, the filing will be stayed pending consideration of the protest(s). A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

The plat(s) will be placed in the open files of the Oregon State Office, Bureau of Land Management, 1300 N.E. 44th Avenue, Portland, Oregon 97213, and will be available to the public as a matter of information only. Copies of the plat(s) may be obtained from the above office upon required payment. A person or party who wishes to protest against a survey must file with the State Director, Bureau of Land Management, Portland, Oregon, a notice that they wish to protest prior to the proposed official filing date given above. A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30 days after the proposed official filing date.

The above-listed plats represent dependent resurveys, survey and subdivision.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 1300 N.E. 44th Avenue, P.O. Box 2965, Portland, Oregon 97208.

Dated: June 17, 1991.

Robert E. Mollohan,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 91–15320 Filed 6–26–91; 8:45 am]

BILLING CODE 4310–33–M

[ID 943-4214-10; IDI-3378]

Termination of Proposed Withdrawal and Reservation of Lands, Correction; Idaho.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice will correct the errors in the land descriptions in a Notice of Termination of Proposed Withdrawal and Reservation of Lands.

The land descriptions in the Notice of Termination of Proposed Withdrawal and Reservation of Lands, Published in 56 FR 69, of April 10, 1991, on page 14532 are hereby corrected as follows:

In the second column, lines 18, 19 and 20, which read:

T. 3 N., R. 43 E.,
sec. 6, lots 22 and 23,
sec. 7, lots 11, 20 and 21

are hereby corrected to read:

T. 3 N., R. 42 E.,
sec. 6, lots 21, 22 and 23,
sec. 7, lots 11, 19, 20 and 21.

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 91-15321 Filed 6-26-91; 8:45 am]

BILLING CODE 4310-CG-M

[NM-940-4214-10; OKNM 63446]

Cancellation of Proposed Withdrawal Application; Oklahoma

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Department of the Army, Corps of Engineers, has relinquished its application for withdrawal of public land for flood control purposes, and to protect water supply, water quality, recreation, navigation, and fish and wildlife on Kaw Lake and Keystone Lake.

EFFECTIVE DATE: June 27, 1991.

FOR FURTHER INFORMATION CONTACT: Clarence F. Hougland, BLM, New Mexico State Office, P.O. Box 1449, Santa Fe, New Mexico 87504-1449, 505-988-6071.

SUPPLEMENTARY INFORMATION: A notice of proposed withdrawal and reservation of land for the Department of the Army, Corps of Engineers, was published in the **Federal Register** on December 2, 1987, Volume 52, No. 231, Page 45874, Document No. 87-27620. The purpose of the application, Serial Number OKNM 63446, was for flood control purposes, and to protect water supply, water quality, recreation, navigation, and fish and wildlife on Kaw Lake and Keystone Lake.

On April 16, 1991, The Department of the Army, Corps of Engineers relinquished its application for withdrawal of public land. The segregation from surface entry automatically terminated on November 20, 1989. Therefore, application for withdrawal, Serial Number OKNM 63446, is hereby cancelled on the following land:

Indian Meridian

T. 29 N., R. 3 E.,
sec. 25, lot 5.
T. 21 N., R. 9 E.,
sec. 32, lot 10.

The acres described aggregate 11.89 acres in Kay and Pawnee Counties.

This order does not otherwise affect the status of the land.

Dated: June 21, 1991.

Monte G. Jordan,

Associate State Director.

[FR Doc. 91-15322 Filed 6-26-91; 8:45 am]

BILLING CODE 4310-FB-M

[OR-943-4214-10; GP1-256; OR-45401]

Proposed Withdrawal and Opportunity for Public Meeting; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes to withdraw an additional 29.58 acres of public lands and 3,703.69 acres of non-Federal lands, which will be acquired for protection of the New River Area of Environmental Concern. Because this notice amends the original petition/application, the two year temporary segregation from surface entry and mining will expire on March 29, 1992. The public land will remain open to mineral leasing.

DATE: Comments and requests for a public meeting must be received by September 25, 1991.

ADDRESS: Comments and meeting requests should be sent to the Oregon State Director, BLM, P.O. Box 2965, Portland, Oregon 97208.

FOR FURTHER INFORMATION CONTACT: Linda Sullivan, BLM, Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, 503-280-7171.

SUPPLEMENTARY INFORMATION: On May 31, 1991, a petition was approved allowing the Bureau of Land Management to file an amendment to the original petition/application to withdraw the following described additional lands from settlement, sale, location, or entry under the general land laws, including the mining laws, subject to valid existing rights. Such segregation will automatically attach to the non-Federal lands upon acquisition by the United States:

Willamette Meridian

Public Domain Lands

T. 30 S., R. 15 W.,
Sec. 32, lot 1;
Sec. 33, lot 2.

The area described contains 29.58 acres in Curry County, Oregon.

Willamette Meridian

Non-Federal Lands

T. 30 S., R. 15 W.,
Sec. 2, lots 3 and 4, S½NW¼, and W½SW¼;
Sec. 3, lots 1 and 2;
Sec. 10, lot 6 and E½NE¼;
Sec. 11, W½NW¼, SE¼NW¼, and NW¼SW¼;
Sec. 15, lot 5, SE¼NE¼, SE¼SW¼, and SE¼;
Sec. 21, lot 1;
Sec. 22, E½, E½NW¼, NE¼SW¼, and S½SW¼;
Sec. 27, N½NE¼, SW¼NE¼, W½, and W½SE¼;
Sec. 28, lots 1, 2, 3, and 4, SE¼NE¼, and E½SE¼;
Sec. 33, lots 1, 3 and 4, E½, and E½SW¼.
T. 31 S., R. 15 W.,
Sec. 4, lots 1, 2, 3, and 4, S½N½, and S½;
Sec. 5, lots 1, 2, 3, and 4, and E½SE¼;
Sec. 7, lot 1;
Sec. 8, lots 3, 4, 5, and 6, N½NE¼, and SW¼NE¼;
Sec. 9, NW¼NW¼.

The areas described aggregate, including any accretions thereto, approximately 3,703.69 acres in Coos and Curry Counties, Oregon.

The purpose of the proposed withdrawal is to protect the New River area of Critical Environmental Concern which is located adjacent to the Pacific Ocean approximately 30 miles south of the city of Coos Bay.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the undersigned officer within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at

least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR part 2300.

Because this is an amendment to the original petition/application, the two year temporary segregation will expire on March 29, 1992. The lands will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. The temporary uses which may be permitted during this segregative period are leases, licenses, permits, rights-of-way, and disposal of mineral or vegetative resources other than under the mining laws.

Dated: June 14, 1991.

Robert E. Mollohan,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 91-15323 Filed 6-26-91; 8:45 am]

BILLING CODE 4310-33-M

Fish and Wildlife Service

Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

Applicant: Pacific Gas and Electric Company, San Ramon, CA, PRT-755945.

The applicant requests a permit to conduct surveys of Shasta crayfish (*Pacifastacus fortis*) in Fall River, Hat Creek and Pit River and tributaries and reservoirs, Shasta County, California, in order to determine the distribution and relative abundance of this species.

Applicant: Dr. Clayton White, Brighan Young University, PRT-758552.

The applicant requests a permit to import 4 male and 5 female peregrine falcons (*Falco peregrinus nesiotes*) removed from the wild on various islands within the Fiji Group, for the purpose of scientific research and enhancement of propagation and survival of the species.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review by any party who submits a written request for a copy of such documents to, or by appointment during normal business hours (7:45—4:15) in, the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203. Phone: (703/358-2104); FAX: (703/358-2281)

Dated: June 20, 1991.

Maggie Tieger,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 91-15268 Filed 6-26-91; 8:45 am]

BILLING CODE 4310-55-M

Availability of a Draft Environmental Assessment for the Proposed Experimental Release of Red-crowned Cranes in Schoolcraft Co., Upper Peninsula of Michigan

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the draft Environmental Assessment on the proposed experimental release of red-crowned cranes (*Grus japonensis*) in Schoolcraft County, Michigan, is available for public review. Comments and suggestions are requested. The Ohio Cooperative Fish and Wildlife Research Unit (OCFWRU) proposes to release approximately 16 isolation-reared, juvenile red-crowned cranes on Seney National Wildlife Refuge in each summer of 1991 and 1992. The purpose of this release is to complete development of a reintroduction technique applicable to a migratory population of the endangered whooping crane (*G. americana*). The proposed release area is within the Great Lakes to Florida migration route traditionally used by the eastern population of greater sandhill cranes (*G. canadensis tabida*). This route is within the recent historical range of the whooping crane. Whooping cranes are not available for use in this experiment, and the red-crowned crane, an endangered species native to eastern Asia, is the only species sufficiently similar to provide a suitable surrogate at this stage of experimentation. Sterilization of males before release and removal of birds from the wild at the conclusion of the experiment would ensure that no population of this exotic species could become established on this migration route.

DATES: Written comments on the draft Environmental Assessment are requested by August 12, 1991.

ADDRESSES: Comments should be addressed to: Regional Director, U.S. Fish and Wildlife Service, Region 3, Federal Building, Fort Snelling, Twin Cities, MN 55111.

FOR FURTHER INFORMATION CONTACT: Richard P. Urbanek, OCFWRI Research Associate, Seney National Wildlife Refuge, Seney, MI 49883, 906/586-9851. Individuals wishing copies of this environmental assessment for review should immediately contact Dr. Urbanek. Copies have been sent to all agencies and individuals who participated in the scoping process and to all others who have already requested copies.

SUPPLEMENTARY INFORMATION: Richard Urbanek is the primary author of this document. This action is designed to develop a reintroduction technique applicable to the whooping crane by use of the red-crowned crane as an experimental surrogate.

The U.S. Whooping Crane Recovery Plan recommends establishment of two wild populations of at least 25 breeding pairs each in addition to the existing Wood Buffalo/Aransas population before the whooping crane can be downlisted from endangered to threatened status. An experiment in Idaho was unable to confirm cross-fostering (i.e., placing whooping crane eggs in sandhill crane nests) as a reliable reintroduction technique. Releases of captive-reared sandhill cranes in Mississippi and in the Great Lakes Region have been successful in augmenting existing sandhill populations, but these methods have not been tested with whooping cranes or with a more appropriate surrogate species than the sandhill crane. Releases of captive-reared individuals of an introduced species into areas where that species does not currently occur have not been made and evaluated. Proven techniques for establishing additional populations of the whooping crane are, therefore, lacking. Whooping crane eggs are not available for the proposed experiment; therefore, use of an ecologically similar, closely related substitute species is required. Because proven facilities, staff, and a successful sandhill crane research program are currently operating at Seney National Wildlife Refuge, prospects for successful development of an isolation-rearing/gentle release technique using the red-crowned crane as an experimental surrogate are excellent at this time.

This action will result in an increased probability of recovery and a reduced threat of extinction of the whooping crane in North America, the red-crowned crane in Asia, and possibly other endangered or threatened species

of cranes if a new reintroduction technique can be developed. No significant adverse consequences of the proposed action have been identified.

The primary study area is Seney National Wildlife Refuge and adjacent areas in the Upper Peninsula of Michigan, including the Hiawatha National Forest and Lake Superior State Forest. Study areas on the migration route include northeastern/east-central Wisconsin, Jasper-Pulaski State Fish and Wildlife Area in Indiana, and wintering areas in southern Georgia and peninsular Florida.

Approximately 16 red-crowned crane chicks will be isolation-reared (i.e., reared in groups of their own species by puppets/costumed humans and without exposure to human features or voices) and gentle-released on Seney National Wildlife Refuge during each summer, 1991 and 1992, according to procedures previously used with sandhill cranes and appropriately modified. Eggs will be surplus obtained from captive propagation. Males will be sterilized by vasectomy, and all birds will be confirmed negative for serious disease before release. Released cranes will be monitored by radiotelemetry and visual observation to assess survival, migration movements, return rate, and social behavior. Removal of birds from the wild will be attempted after monitoring is completed. The initial stage of the project will continue until approximately October 1, 1993. Additional research after that date will depend on survival of released birds, satisfactory progress toward accomplishing project objectives, and continued availability of staff and funding.

The major alternative to performing the experiment is no action. That alternative would reduce available reintroduction options and could jeopardize or delay the recovery of the whooping crane. The development of an effective reintroduction technique is essential to this recovery, and isolation-rearing/gentle release in a migratory situation is certainly one of the better options that needs to be investigated.

More than 30 government agencies or individual biologists were consulted in planning and preparation of the proposal and this environmental assessment. The project was discussed with seven members of the U.S. Whooping Crane Recovery Team in a meeting at Seney National Wildlife Refuge on July 24, 1990. A written response by the Team was complied and transmitted through Region 2, U.S. Fish and Wildlife Service.

All agencies and individuals are urged to provide comments and suggestions for improving this environmental assessment as soon as possible. All comments received by the dates given above will be considered in preparation of the final environmental assessment for this proposed action.

Dated: May 17, 1991.

James C. Gritman,

Regional Director, Fish and Wildlife Service.

[FR Doc. 91-15314 Filed 6-26-91; 8:45 am]

BILLING CODE 4310-55-M

Office of Surface Mining Reclamation and Enforcement

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act.

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related form may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the proposal should be made directly to the bureau clearance officer and to the Office of Management and Budget, Paperwork Reduction Project (1029-0097), Washington, DC, 20503, telephone 202-395-7340.

Title: State Enforcement Activities, 30 CFR part 720.

OMB Approval Number: 1029-0097.

Abstract: Information collected in part 720 is used to monitor State permitting and inspection activities and to provide the Office of Surface Mining Reclamation and Enforcement with necessary information for purposes of conducting Federal mine inspection and enforcement activities under the initial regulatory program.

Bureau Form Number: None.

Frequency: On occasion.

Estimated Completion Time: One hour.

Description of Respondents: State regulatory authorities.

Annual Responses: One.

Annual Burden Hours: One.

Bureau Clearance Officer: Richard L. Wolfe (202) 343-5143.

Dated: May 24, 1991.

John P. Mosesso,

Chief, Division of Technical Services.

[FR Doc. 91-15324 Filed 6-26-91; 8:45 am]

BILLING CODE 4310-05-M

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirements should be made directly to the Bureau clearance officer and to the Office of Management and Budget Paperwork Reduction Project (1029-0098), Washington, DC 20503, telephone 202-395-7340.

Title: Petition Process for Designation of Federal Lands as Unsuitable for All or Certain Types of Surface Coal Mining Operations and for Termination of Previous Designations, 30 CFR 769.

OMB Number: 1029-0098.

Abstract: This Part establishes the minimum procedures and standards for designating Federal lands unsuitable for all or certain types of surface coal mining operations and for terminating designations pursuant to petition. The information requested will aid the regulatory authority in the decision-making process to approve or disapprove a request to designate or terminate an area as unsuitable.

Bureau Form Number: None.

Frequency: On occasion.

Description of Respondents: Individuals, Industry, and Environmental Groups.

Annual Responses; 3.

Annual Burden Hours: 210.

Estimated Completion Time: 70 hours.

Bureau clearance officer: Richard L. Wolfe (202) 343-514.

Dated: May 24, 1991.

John P. Mosesso,

Chief, Division of Technical Services.

[FR Doc. 91-15325 Filed 6-26-91; 8:45 am]

BILLING CODE 4310-05-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Public Information Collection Requirements Submitted to OMB for Review

The Agency for International Development (A.I.D.) submitted the

following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of the entry no later than ten days after publication. Comments may also be addressed to, and copies of the submissions obtained from the Reports Management Officer, Fred D. Allen, (703) 875–1573, MS/AS/ISS, room 1209B, SA–14, Washington, DC 20523–1413.

Date Submitted: June 18, 1991.

Submitting Agency: Agency for International Development.

OMB Number: None assigned.

Form Number: In draft.

Type of Submission: New Collection.

Title: The Microenterprise Monitoring System Project (MEMS).

Purpose: The Agency for International Development (A.I.D.) provides funds to various organizations worldwide to carry out activities in support of microentrepreneurs. These activities range from the provision of technical assistance to the creation of credit programs for the very poor. As a part of legislation A.I.D. has been directed to report annually to the Congress on its microenterprise program. It has also been instructed to implement a monitoring system which will enable the Agency to provide very detailed data on the outputs and beneficiaries of the microenterprise programs.

Annual Reporting Burden: Respondents: 485; annual responses: 1; average hours per response: 21.1; burden hours: 10,290.

Reviewer: Marshall Mills (202) 395–7340, Office of Management and Budget, room 3201, New Executive Office Building, Washington, DC 20503.

Dated: June 20, 1991.

Elizabeth Baltimore,

Information Support Services Division.

[FR Doc. 91–15313 Filed 6–26–91; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF JUSTICE

Lodging of Two Consent Decrees Pursuant to Cercla in United States v. Jessee Roofing and Pointing Co., Inc.

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on June 17, 1991, two proposed Consent Decrees in *United States* v. *Jessee Roofing and Pointing Co., Inc.* Civil Action No. 3–91–60035 were lodged with the United States District Court for the Southern District of Iowa (Davenport Division).

The Complaint in this enforcement action was filed on April 1, 1991, against Jessee Roofing and Pointing Co., Inc., Charles J. Jessee, Dorothy L. Jessee, and Tully Automotive, Ltd. under Section 107 of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), 42 U.S.C. 9607, seeking reimbursement of costs incurred by the United States in responding to the release or threat of release of hazardous substances from the Bettendorf Site located in Bettendorf, Iowa.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the two proposed Consent Decrees. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Jessee Roofing and Pointing Co., Inc.* (DoJ # 90–11–3–555a).

The two proposed Consent Decrees may be examined at the office of the United States Attorney, Southern District of Iowa, 115 U.S. Courthouse, East 1st & Walnut Sts., Des Moines, Iowa 50309 and the United States Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101. Copies of the two proposed Consent Decrees may be obtained in person or by mail from the Environmental Enforcement Section Document Center, 1521, 601 Pennsylvania Avenue, NW., Washington, DC 20004. In requesting a copy please enclose a check in the amount of $ .25 per page payable to the Treasurer of the United States.

Richard B. Stewart,

Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 91–15262 Filed 6–26–91; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Pursuant to the National Cooperative Research Act of 1984—Hydrogen Chloride Joint Venture

Notice is hereby given that, on June 3, 1991, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), written notice has been filed by The Drackett Company simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the Hydrogen Chloride Joint Venture ("Joint Venture") and (2) the nature and objectives of the Joint Venture. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the Joint Venture and its general areas of planned activity are given below.

The parties to the Joint Venture are: Amrep, Inc.; A.B.C. Compounding Co., Inc.; Betco Corporation; Canberra Corporation; Carroll Company; Cello/Grow Group; Chemical Specialties Manufacturers Association; Creative Chemicals, Inc.; The Dial Corporation; Diversey Wyandotte Corporation; The Drackett Company; Dymon, Inc.; Flo-Kem, Inc.; Huntington Laboratories; Hysan Corporation; S.C. Johnson Wax; L & F Products Group; Lonza, Inc.; NCH Corporation; Nyco Products Company; Oxford Chemical; Reckitt & Colman Household Products; I. Schneid, Inc.; Scott/Sani-Fresh International; Spartan Chemical Co.; Stepan Company; Theochem Laboratories (Time Products, Inc.); Warsaw Chemical; Zep Manufacturing Company.

The objective of the Joint Venture is to sponsor and conduct toxicological research on the chemical known as hydrogen chloride and to submit the results of this research to the U.S. Environmental Protection Agency ("EPA") in response to the Data Call-In for List D issued by the EPA in January 1990.

Membership in the Joint Venture remains open, and the parties intend to file additional written notification disclosing all changes in membership.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 91–15261 Filed 6–26–91; 8:45 am]

BILLING CODE 4410–01–M

Pursuant to the National Cooperative Research Act of 1984—Sodium Bisulfate Joint Venture

Notice is hereby given that, on June 3, 1991, pursuant to Section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. § 4301 *et seq.* ("the Act"), written notice has been filed by The Drackett Company simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the Sodium Bisulfate Joint Venture ("Joint Venture") and (2) the nature and objectives of the Joint Venture. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6 (b) of the Act, the identities of the parties to the Joint Venture and its

general areas of planned activity are given below.

The parties to the Joint Venture are: Amway Co.; Chemical Specialties Manufacturers Association; The Drackett Co.; L & F Products; and Reckitt & Colman Household Products.

The objective of the Joint Venture is to sponsor and conduct toxicological research on the chemical known as sodium bisulfate and to submit the results of this research to the U.S. Environmental Protection Agency ("EPA") in response to the Data Call-In for List D issued by the EPA in January 1990.

Membership in the Joint Venture remains open, and the parties intend to file additional written notification disclosing any changes in membership.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 91-15260 Filed 6-26-91; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Megastar Apparel Group; TA-W-25,565 Lexington Sportswear, Lexington, S.C. TA-W-25,568 Ace Sweater Mill, Union, S.C.; Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance; Correction

This notice deletes the affirmative determinations for workers of the subject firms producing men's and boys' shirts which was erroneously published in the **Federal Register** on May 10, 1991 (56 FR 21690) in FR Document 91-11174.

The workers at Lexington Sportswear, Lexington, S.C. and Ace Sweater Mill, Union, S.C. were already certified under petitions TA-W-24,782 and TA-W-24,728 which were published in the **Federal Register** on November 30, 1990 (55 FR 49719), and November 14, 1990 (55 FR 47550), respectively. Accordingly, the subject certifications TA-W-25,565 and TA-W-25,568 are hereby revoked.

Signed in Washington, D.C., this 20th day of June 1991.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 91-15289 Filed 6-26-91; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-25,679]

New Jersey Tanning Co., Newark, NJ; Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance; Correction

This notice deletes the affirmative determination for workers of the subject firm which was erroneously published in the **Federal Register** on June 5, 1991 (56 FR 25700) in FR Document 91-13220.

The subject workers were already certified under TA-W-25,630 which was published in the **Federal Register** on June 11, 1991 (56 FR 26841). Accordingly, the subject certification TA-W-25,679 is hereby revoked.

Signed in Washington, DC, this 20th day of June 1991.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 91-15290 File 6-26-91; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Inter-Arts Advisory Panel Meeting

Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Inter-Arts Advisory Panel (Challenge III section) to the National Council on the Arts will be held on July 18, 1991 from 9 am.-5:30 pm. in room 714 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

Portions of this meeting will be open to the public from 9 a.m. -10 am. and 4:30 pm.-5:30 pm. The topics will be opening remarks and introductions, overview of Challenge III, and policy discussion.

The remaining portion of this meeting from 10 a.m.-4:30 p.m. is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of June 5, 1991, this session will be closed to the public pursuant to paragraphs (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any interested persons may attend, as observers, meetings, or portions thereof, of advisory panels which are open to the public.

Members of the public attending an open session of a meeting will be permitted to participate in the panel's discussions at the discretion of the chairman of the panel if the chairman is a full-time Federal employee. If the chairman is not a full-time Federal employee, then public participation will be permitted at the chairman's discretion with the approval of the full-time Federal employee in attendance at the meeting, in compliance with this guidance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Dated: June 19, 1991.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 91-15283 Filed 6-26-91; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 70-398]

Finding of no Significant Impact and Opportunity for a Hearing Renewal of Special Nuclear Material License No. SNM-362 Department of Commerce National Institute of Standards and Technology Gaithersburg, MD

The U.S. Nuclear Regulatory Commission (the Commission) is considering the renewal of Special Nuclear Material License No. SNM-362 for the continued operation of the Department of Commerce, National Institute of Standards and Technology (NIST), located in Gaithersburg, Maryland.

Summary of the Environmental Assessment

Identification of the Proposed Action

The proposed action is the renewal of License SNM-362. Renewal will allow NIST to continue to receive, store, and use unsealed radioactive material and sealed radioactive sources covered by this license. Work performed under this license includes irradiation of material and equiment, preparation of sources, characterization and calibration of sources and instruments, sample assays,

radiochemistry, and general research and development.

NIST also has three other NRC licenses, two for distribution of radioactive material and one for the operation of the facility's research reactor. These licenses are separate from SNM–362 and are in no way impacted by the proposed action.

The Need For The Proposed Action

NIST provides a variety of services for federal, state, commercial, and international needs. The nuclear power industry sends radioactive sources and instruments to NIST for calibration. Industrial users depend upon NIST-certified sources for radiography. State, national, and international facilities and laboratories interact with NIST in radioactivity and radiation projects. NIST also has miscellaneous research and development projects using licensed material.

Environmental Impacts of the Proposed Action

Assessing the radiological impact to the environment from activities authorized by License SNM–362 is complicated by the operation of the facility's research reactor. Reactor operation produces most of the effluents released from the site, and they are regulated by another NRC license. All waste water from the site is discharged to the sanitary sewer for treatment at the public sewage treatment plant, and NIST holds a current discharge authorization permit from the Washington Suburban Sanitary Commission to discharge to the sanitary sewer. Since no liquid effluents are released to ground or surface waters, there is no dose to people from liquid effluent pathways. The dose to the population is from exposure from the release of radioactive gaseous effluents from the site's 30-meter tall stack. Argon-41 and tritium are the major components of this gaseous effluents.

The environmental monitoring program at NIST is designed to detect any changes in environmental radiation levels as a result of all activities involving radioactive material at the site, including the operation of the research reactor. Sample media collected are grass, soil, and water. Direct radiation levels are measured by the use of thermoluminescent dosimeters (TLDs). NIST's environmental program has been in place for over 25 years. The staff has evaluated the monitoring program and concluded it is adequate to detect any buildup of radionuclides released to the environment as a result of site operations.

Doses were calculated using the effluent data from the site's stack. The maximum values of activity released for argon-41 and tritium for the years 1984 through 1990 were used. For the individual dose, the maximally exposed individual is located in the southwest sector, 450 meters from the site's stack. The major exposure pathway is immersion in a cloud of argon-41. The effective whole body dose to the maximally exposed individual is 2.77 millirem per year. The critical organ is considered to be the whole body. The calculated dose is well below the 10 CFR 20.105(a) limit of 500 mrem per year and the revised 10 CFR 20.1301 limit of 100 mrem per year (published in the **Federal Register**, May 21, 1991). Also, the calculated dose is below the limit in the current 40 CFR 61.102 (25 mrem per year) and the revised 40 CFR 61.02 (10 mrem per year) that has been stayed from implementation.

The dose to the population around the NIST site is estimated to be 86.6 person-rem per year from site activities. This estimate is based on a population of 7,966,000 for a 50-mile radius around the site. This value is also conservative in that the highest activities of argon-41 and tritium released from the stack during the years 1984 through 1990 were used.

Conclusion

The staff concludes the impact to the environment and to human health and safety from work with radioactive materials authorized by License SNM–362 has been minimal. Results from the environmental radiation monitoring program, which has been in place for more than 25 years, have shown that environmental radiation levels have not increased as a result of site operations. Liquid effluents released to the sanitary sewer for treatment contain levels of radioactivity well below regulatory limits. Airborne effluents are at low levels which are difficult to quantify. In the future, the various discharge points will be monitored so the activity of material can be more easily quantified. However, the gaseous effluents released from the stack to the atmosphere will continue to be the major contributor to the dose to the population. The staff concludes that there will be no significant impacts associated with the proposed action.

Alternatives to the Proposed Action

The only alternative to the proposed action would be to deny approval of the license renewal application. Denial would mean NIST would have to cease all work with radioactive material controlled by this license. NIST's license would not be renewed if there were significant problems with human health and safety or with the environment that could not be resolved to the satisfaction of the NRC. Since there is minimal impact to the environment from work done under this license, little benefit would be gained by denying renewal of License SNM–362.

Agencies and Persons Consulted

Staff utilized the application dated March 30, 1990, and additional information dated January 23, 1991, and March 5, 1991. Also, on December 17, 1990, staff toured the NIST site and discussed the renewal application.

Finding of No Significant Impact

The Commission has prepared an Environmental Assessment related to the renewal of Special Nuclear Material License No. SNM–362. On the basis of this assessment, the Commission has concluded that environmental impacts that would be created by the proposed licensing action would not be significant and do not warrant the preparation of an Environmental Impact Statement. Accordingly, it has been determined that a Finding of No Significant Impact is appropriate.

The Environmental Assessment and the above documents related to this proposed action are available for public inspection and copying at the Commission's Public Document Room at the Gelman Building, 2120 L Street NW., Washington, DC. Copies of the Environmental Assessment may be obtained by calling (301) 492–3358 or by writing to the Fuel Cycle Safety Branch, Division of Industrial and Medical Nuclear Safety, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Opportunity for a Hearing

Any person whose interest may be affected by the issuance of this renewal may file a request for a hearing. Any request for hearing must be filed with the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, within 30 days of the publication of this notice in the **Federal Register**; be served on the NRC staff (Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852); on the licensee (U.S. Department of Commerce, National Institute of Standards and Technology Occupational Health and Safety Division, Gaithersburg, Maryland 20899); and must comply with the requirements for requesting a hearing set forth in the Commission's regulation, 10 CFR part 2, subpart L, "Informal Hearing Procedures for Adjudications in Materials Licensing Proceedings." These

requirements, which the requestor must describe in detail, are:

1. The interest of the requestor in the proceeding;

2. How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing;

3. The requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and

4. The circumstances establishing that the request for hearing is timely, that is filed within 30 days of the date of this notice.

In addressing how the requestor's interest may be affected by the proceeding, the request should describe the nature of the requestor's right under the Atomic Energy Act of 1954, as amended, to be made party to the proceeding; the nature and extent of the requestor's property, financial, or other (i.e., health, safety) interest in the proceeding; and the possible effect of any order that may be entered in the proceeding upon the requestor's interest.

Dated at Rockville, Maryland, this 19th day of June, 1991.

For the Nuclear Regulatory Commission

Jerry J. Swift,

Acting Chief, Fuel Cycle Safety Branch, Division of Industrial and Medical Nuclear Safety, NMSS.

[FR Doc. 91–15348 Filed 6–26–91; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Issuance of Interim Accounting Standards for the Preparation of Financial Statements Presented for Audit by Federal Departments and Agencies

AGENCY: Office of Management and Budget.

ACTION: Notice.

SUMMARY: This Notice provides a copy of a Memorandum for Heads of Departments and Agencies from the Director of the Office of Management and Budget issuing interim accounting standards for the preparation of financial statements presented for audit by Federal departments and agencies.

FOR FURTHER INFORMATION CONTACT: Wendy Zenker (telephone: 202–395–6911) or Steven Arisumi (telephone: 202–395–3050), Financial Management Division.

SUPPLEMENTARY INFORMATION: This Notice provides a copy of a June 11, 1991, Memorandum for Departments and Agencies from the Director of the Office of Management and Budget issuing interim accounting standards for the preparation of financial statements presented for audit by Federal departments and agencies.

Susan Gaffney,

Acting Assistant Director, Financial Management Division.

Herein follows the text of the Memorandum for Heads of Executive Departments and Agencies from the Director of the Office of Management and Budget:

Memorandum for Heads of Departments and Agencies

June 11, 1991.

From: Richard Darman.

Subject: Interim Accounting Standards.

The purpose of this memorandum is to establish interim accounting standards for the preparation of financial statements presented for audit by Federal departments and agencies. (This memorandum will be published in the **Federal Register.**)

Background

The Secretary of the Treasury, the Director of the Office of Management and Budget, and the Comptroller General of the United States (the Joint Financial Management Improvement Program (JFMIP) Principals) established the Federal Accounting Standards Advisory Board (FASAB) in October 1990. The FASAB recommends accounting standards and principles for the Federal government.

On April 4, 1991, the FASAB submitted a recommendation on interim accounting standards for Executive departments and agencies to use in preparing financial statements presented for audit. The JFMIP Principals have each adopted the recommendation.

Interim Accounting Standards

The following interim accounting standards shall apply to Executive departments and agencies:

In order to provide a benchmark for preparing financial statements presented for audit, executive agencies shall continue using, on an interim basis, the applicable accounting standards (i.e. those contained in agency accounting policy, procedures manuals, and/or related guidance) now in effect for the preparation of their financial statements, pending FASAB recommendations and JFMIP Principals' adoption of federal accounting standards.

Where these applicable standards differ from those of Title 2 of The Policy and Procedures Manual For Guidance of Federal Agencies, published by the U.S. General Accounting Office, agencies are directed to make full disclosure of the differences and the alternative accounting basis used in preparing those financial statements.

Agencies are directed to submit to FASAB, on an expedited basis, those title 2 standards that they recommend be reexamined and possibly changed, or any other accounting standards which they propose to be considered for adoption. These submissions will be considered in establishing FASAB's agenda.

Nothing in this action should be construed as prohibiting or inhibiting agencies from improving their accounting policies, standards, or practices before JFMIP Principals' adoption of federal accounting standards.

Conclusion

Departmental and agency recommendations on proposed accounting standards should be submitted to: The Federal Accounting Standards Advisory Board, The National Building Museum, 401 F Street NW., room 302, Washington, DC 20001.

Questions regarding this memorandum may be directed to: Steven Arisumi, Office of Management and Budget, Financial Management Division, New Executive Office Building—room 10235, Washington, DC 20503 (Telephone number (202) 395–3050).

[FR Doc. 91–15352 Filed 6–26–91; 8:45 am]

BILLING CODE 3110–01–M

RAILROAD RETIREMENT BOARD

Determination of Quarterly Rate of Excise Tax for Railroad Retirement Supplemental Annuity Program

In accordance with directions in section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C. 3221(c)), the Railroad Retirement Board has determined that the excise tax imposed by such section 3221(c) on every employer, with respect to having individuals in his employ, for each work-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning July 1, 1991, shall be at the rate of 28½ cents.

In accordance with directions in section 15(a) of the Railroad Retirement Act of 1974, the Railroad Retirement Board has determined that for the quarter beginning July 1, 1991, 33.6 percent of the taxes collected under sections 3211(b) and 3221(c) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Account and 66.4 percent of the taxes collected under such sections 3211(b) and 3221(c) plus 100 percent of the taxes colleted under section 3221(d) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Supplemental Account.

Dated: June 20, 1991.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 91–15327 Filed 6–26–91; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-29351; International Series Release No. 290; File No., SR-ISCC-91-01]

Self-Regulatory Organizations; International Securities Clearing Corporation; Filing of Proposed Rule Change Regarding the Global Clearance Network Service

June 20, 1991.

Pursuant to section 19(b) (1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on May 30, 1991, the International Securities Clearing Corporation ("ISCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared by ISCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of a rule which will permit qualified ISCC members, utilizing standardized input and output format, to obtain through ISCC, foreign clearing, settlement, and custody services offered by a bank selected by ISCC. Pursuant to the proposed rule change, ISCC would select Citibank, N.A., as one bank through which ISCC members will obtain foreign clearing, settlement, and custody services at reduced prices.

II. Self-Regulatory Organization's Statement Regarding the Proposed Rule Change

In its filing with the Commission, ISCC included statements concerning the purpose of and statutory basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. ISCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of Purpose of, and Statutory Basis for, the Proposed Rule Change

The service will enable members to submit data in a standardized trade format. Transmission of data to ISCC may occur several times throughout the day. Upon receipt, ISCC will validate the data and, if accepted, translate the data into the bank's format. If the data is not accepted, the member will be notified of such, and will be required to resubmit such rejected data. Accepted data will be transmitted to the bank where processing will occur under the bank's normal terms, conditions, and operating framework. If a transaction received by the bank is unacceptable because, for example, the shares in question are not in the member's account, the bank will notify the member directly of such occurrence. Each day the bank will report back to ISCC confirmations and statement and balance position reports. ISCC will translate this data into the universal output format and make it available to members. The service which Members obtain will conform with local market practices, procedures, regulations, and conventions.

ISCC has entered into an agreement with a major bank, Citibank, N.A., pursuant to which qualified ISCC members will be able to obtain foreign clearing, settlement, and custody services available from such bank at reduced prices. In order to obtain these prices, ISCC has guaranteed that a certain number of transactions will be processed over a fixed period of time. In the absence of such volume, ISCC has agreed that the bank will have the right to receive payment for any shortfall. In order to minimize ISCC's exposure from such guarantee, ISCC is requiring members who choose to use the service to guarantee to ISCC a proportionate share of such guarantee.

Each member of ISCC who chooses to participate in the service will have to be approved by the bank, since payment obligations for use of the service, such as fees, settlement amounts, or other funds necessary to conduct the clearance, settlement, and custody of foreign transactions, will remain an obligation between the member and the bank. Although ISCC has assumed no liability to the bank for these payments, ISCC has agreed to collect these fees from members on the bank's behalf, and will be responsible to remit only those funds collected.

ISCC will periodically review the adequacy of the services it receives from the bank under the agreement. ISCC has the right to terminate the arrangement if the bank materially fails to perform its obligations under the agreement.

The proposed rule change will facilitate and centralize the processing of international transactions at a beneficial cost to members. Accordingly, it is consistent with the requirements of section 17A of the Act and the rules and regulations thereunder.

(B) Self-Regulatory Organization's Statement on Burden on Competition

ISCC does not believe that the proposed rule change will have an impact or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments have been solicited or received. ISCC will notify the Commission of any written comments received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reason for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of ISCC. All submissions should refer to File No. SR-ISCC-91-01 and should be submitted by July 18, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-15235 Filed 6-26-91; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-29349; File No. SR-NASD-91-29]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Expiration of Exemption From Firm Quote Rule

Pursuant to section 19(b) (1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(l), notice is hereby given that on May 30, 1991, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ["Commission" or "SEC"] the proposed rule change as described in items I, II, and III below, which Items have been prepared by the NASD. The NASD has designated this proposal as one concerned solely with the administration of the self-regulatory organization under section 19 (b)(3)(A)(iii) of the Act, which renders the proposed rule change effective upon the Commission's receipt of this filing. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing to delete language from part VI of Schedule D to the By-Laws regarding the expiration of an exemption to the firm quote rule for market makers receiving orders from competing market makers.

II. Self-Regulatory Organization's Statement of the Purpose, of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in item IV below. The NASD has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Association is proposing to delete language from Schedule D to the NASD By-Laws regarding an exemption from the firm quote rule [1] that expires on June 1, 1991. In 1989, the NASD submitted a rule proposal to the SEC to require NASDAQ market makers to display quotation size equal to the maximum order size displayed in the Small Order Execution System ("SOES"). The NASD requested an exemption from the firm quote rule for orders received from competing market makers. The firm quote rule requires broker/dealers to execute any order presented to them at their published quotation size, and the NASD was concerned about the possible financial exposure resulting from the combined effect of mandatory display of size with the requirement to deal with all market makers in a stock. Accordingly, the SEC approved the rule filing effective December 1, 1990 and granted an exemption for six months, expiring June 1, 1991.

The NASD believes the conforming rule change now being proposed is consistent with the SEC's approval order and with section 15A(b)(6) of the Act. Section 15A(b)(6) requires that the rules of a national securities association be designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transaction in securities, to remove impediments to and perfect the mechanism of a free and open market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to section 19(b)(3)(A)(iii) of the Act and subparagraph (e) of rule 19b-4 thereunder. At any time within 60 days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

[1] Rule 11Ac1-1(c)(2) under the Act. The proposed rule change removes language referencing a temporary exemption from the firm quote rule to reflect the expiration of the exemption.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by July 18, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Dated: June 20, 1991.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-15237 Filed 6-26-91; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34- 29345; File No. SR-NYSE-91-20]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Extraordinary Market Conditions

Pursuant to section 19 (b) (1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on May 23, 1991, the New York Stock Exchange ["NYSE" or "Exchange"] filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this not ce to

solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE proposes to add new rule 758B to provide as follows:

Extraordinary Market Conditions

Rule 758B. In the interest of maintaining a fair and orderly market under unusual trading conditions for one or more classes of options, two Floor Officials shall have the power to determine that the level of trading activity or the existence of unusual market conditions are such that the Exchange is incapable of collecting, processing and making available to quotation vendors bids and offers with respect to one or more classes of options in a manner that accurately reflects the current state of the market on the Floor. Whenever two Floor officials make any such determination, they may declare that a "fast market" exists for these options. They shall immediately notify the Market Surveillance Division of the Exchange upon making any such determination. During the period for which a fast market is in effect, Competitive Options Traders shall be relieved of their obligations under paragraph (b)(i)(C)(1) of rule 758, and options specialists shall be relieved of their obligations under paragraph (e)(i) of rule 750 and under rule 758A, with respect to the maintenance of price continuity and depth. Two Floor Officials shall monitor the activity or condition which formed the basis for the determination that a "fast market" exists and shall immediately notify the Market Surveillance Division when the Exchange is once again capable of collecting, processing and making available to quotation vendors bids and offers with respect to the one or more classes of options in question in a manner that accurately reflects the current state of the market on the Floor. Upon such notification, Competitive Options Traders and options specialists shall once again be obligated as specified in paragraph (b)(i)(C)(1) of rule 758, paragraph (e)(i) of rule 750 and in rule 758A with respect to the maintenance of price continuity and depth.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to establish procedures on the NYSE's options floor for declaring a "fast market" and for relieving Competitive Options Traders and options specialists of their specific obligations under the NYSE's rules regarding the maintenance of price continuity and depth during a fast market. Pursuant to paragraph (b)(i)(C) of rule 758 and paragraph (e) of rule 750, the NYSE will continue to require Competitive Options Traders and options specialists generally to engage in activities in a manner designed to maintain or contribute to the maintenance of a fair and orderly market during a fast market.

By relieving Competitive Options Traders and options specialists of their specific obligations with respect to price continuity and depth during a fast market, the proposed rule change will facilitate the operations of the NYSE's options market during extraordinary market conditions.

The NYSE believes that the proposed rule change is consistent with section 6(b)(5) of the Act in that it is designed to facilitate transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The NYSE has not solicited, and does not intend to solicit, comments on the proposed rule change. The NYSE has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the abovementioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by July 18, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[1]

Dated: June 19, 1991.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-15236 Filed 6-26-91; 8:45 am]

BILLING CODE 8010-01-M

[1] 17 CFR 200.30-3(a) (12) (1990).

[Release No. 34-29350; File No. SR-PSE-91-09]

Self-Regulatory Organizations; Filing and Order Granting Partial Accelerated Approval of Proposed Rule Change by the Pacific Stock Exchange, Inc. Relating to Arbitration Procedures and Interest on Awards

Pursuant to Section 19(b) (1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on May 28, 1991, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in items I, II and III below, which Items have been prepared by the PSE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons, and simultaneously publishing an order granting partial accelerated approval of a portion of the proposed rule change.

I. Self-Regulatory Organization's Statement on the Terms of Substance of the Proposed Rule Change

The PSE has submitted a proposed rule change to amend Rule 12, Arbitration, of the Rules of the Board of Governors. The text of the proposed rule change is available for inspection and copying at the PSE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in item IV below. The PSE has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Service of Documents

The changes to rules 12.2 and 12.13 are being made so that the PSE arbitration rule relating to service of documents conforms with the Uniform Code of Arbitration ("Uniform Code").

Currently, the Director of Arbitration serves copies of the Answer, Counterclaim, Third Party Claim, and Reply on all the non-filing parties. This procedure applies to both Simplified Claims, Rule 12.2(d) and (e), and Regular Claims, Rule 12.13 (b) (1), (3) and (4). The Uniform Code provides that it is the Respondent who must serve all parties with their Answer, Counterclaim, Third Party Claim, and, likewise, the Claimant or Third Party Respondent must serve other parties with their responsive pleadings. The Director of Arbitration is not involved in the distribution process of the pleadings, except for the initial Claim. This provision of the Uniform Code has been adopted by the New York Stock Exchange ("NYSE") and the National Association of Securities Dealers ("NASD"). Similarly, the PSE wishes to adopt this procedure. The amendments are based on the language used in the Uniform Code.

Awards

The proposed amendment to rule 12.29(g), Awards, is based on a rule change approved by the Securities Industry Conference on Arbitration ("SICA"). Rule 12.29(g) currently provides that awards are to bear interest from the date of decision until payment. At the SICA meeting in April 1991, members noted the potential unfairness resulting to the paying party who may have to pay interest for delays beyond their control, *e.g.*, delays in processing and mailing the decision between the Exchange and the arbitrators. The proposed rule provides that the award will not bear interest from the date of the decision, (i) where it is paid within 30 days, (ii) where a motion to vacate has been filed and granted, or (iii) where the arbitrator specifies otherwise in the award. The proposed rule is designed (a) to eliminate the unfairness resulting to a party paying the award and (b) to provide an incentive to pay the award within 30 days, while still providing the arbitrators with discretion to award interest.

The proposed rule filing is consistent with Section 6(b) (5) of the Act in that it promotes just and equitable principles of trade by insuring that members and member organizations and the public have a fair and impartial forum for the resolution of their disputes.

B. Self-Regulatory Organization's Statement on Burden on Competition

The PSE does not believe that the proposed rule changes impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments Received on the Proposed Rule Change From Members, Participants or Others

Comments have not been received from members. The rule changes have been approved by SICA.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The PSE requests that the Commission find good cause for approving the portion of the proposed rule change relating to the service of documents prior to the thirtieth day after publication of the notice in the **Federal Register**. The Exchange states that the proposed amendment to the service of documents provision of the PSE's arbitration rules is based on the SICA Uniform Code of Arbitration. The Exchange also states that this provision has been adopted by the NASD and the NYSE.

The Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, section 6(b)(5) of the Act.[1] Section 6(b)(5) of the Act requires that a national securities exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The Commission believes that the proposal furthers the objectives of section 6(b)(5) because the proposed amendment is designed to save administrative time and costs while continuing to ensure that respondents receive adequate notice of the institution of arbitration proceedings. As a result, the Commission believes that the proposal should improve the efficiency and speed of arbitration proceedings administered by the PSE.

The Commission finds that there is good cause to approve the PSE's proposed rule change with respect to the service of pleadings prior to the thirtieth day after the date of publication of notice of filing in the **Federal Register**. The proposal is substantially identical to the NYSE, NASD, and American Stock Exchange ("Amex") rule filings that were approved by the Commission on May 10, 1989.[2] In addition, the

[1] 15 U.S.C. 78f(b)(5) (1988).

[2] See Securities Exchange Act Release No. 26805 (May 10, 1989), 54 FR 21144 (May 16, 1989) (approving Files No. SR-NYSE-88-08, SR-NYSE-88-29, SR-NASD-88-29, SR-NASD-88-51, SR-NASD-89-19 and SR-Amex-88-29).

substance of the proposed rule change previously was published for comment in the Federal Register and no comments were received with respect to this portion of the proposed arbitration rules.[3] This notice and order granting partial accelerated approval of the proposed rule change is consistent with the substance of the Commission's May 10, 1989 order approving the NYSE, NASD, and Amex rule filings.

With respect to the proposed amendment relating to the interest on awards, within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PSE. All submissions should refer to File No. SR-PSE-91-09 and should be submitted by July 18, 1991.

It Is therefore ordered, Pursuant to section 19(b)(2) [4] of the Act, that the proposed rule change relating to the service of documents is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Dated: June 20, 1991.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-15265 Filed 6-26-91; 8:45 am]

BILLING CODE 8010-01-M

[3] Id. Although the PSE recently amended its arbitration rules, the PSE, unlike some of the other self-regulatory organizations that administer arbitration programs, chose at that time to continue to act as an intermediary in pleadings administration. See Securities Exchange Act Release No. 28105 (July 5, 1990), 55 FR 28740 (July 12, 1990) (approving File No. SR-PSE-88-19).

[4] 15 U.S.C. § 78s(b) (2) (1988).

[5] 17 CFR 200.30-3(a) (12) (1990).

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearings; Philadelphia Stock Exchange, Incorporated

June 21, 1991.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f-1 thereunder for unlisted trading privileges in the following securities:

Societe Nationale Elf Aquitaine
American Depositary Receipts, Nominal Value F.F. 50 (File No. 7-6999)
Columbia Gas Systems, Inc.
Common Stock, $10 Par Value (File No. 7-7000)
International Specialty Products, Inc.
Common Stock, $.01 Par Value (File No. 7-7001)
Value City Department Stores, Inc.
Common Stock, No Par Value (File No. 7-7002)
Fruehauf Trailer Corporation
Common Stock, $0.01 Par Value (File No. 7-7003)
Nuveen Quality Income Municipal Fund, Incorporated
Common Stock, $0.01 Par Value (File No. 7-7004)
Calgon Carbon Corporation
Common Stock, $0.01 Par Value (File No. 7-7005)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before July 15, 1991, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commisison, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 91-15345 Filed 6-26-91; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-29323; File No. SR-PTC-91-07]

Self-Regulatory Organizations; the Participants Trust Company; Filing of Proposed Rule Change Relating to the Establishment of Margin Levels for Certain GNMAs

June 17, 1991.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. § 78s(b)(1), notice is hereby given that on May 22, 1991, the Participants Trust Company ("PTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (SR-PTC-91-07) as described in Items I, II, and III below, which items have been prepared by PTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change establishes the percentages to be deducted from the market value of certain securities for purposes of determining the Applicable Percentage of the securities to be included in a participant's Net Free Equity. The securities and percentages are as follows:

GNMA Project Loan Securities—10%
GNMA Project Note Securities—10%
GNMA Construction Loan Securities—12%
GNMA Mobile Home Securities—20%

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, PTC included statements concerning the purpose of and statutory basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. PTC has prepared summaries, set forth in

sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule filing is to establish the percentages (*i.e.*, margin) to be deducted from the market value of certain types of GNMAs eligible for deposit at PTC. The securities and percentages are as follows:

GNMA Project Loan Securities—10%
GNMA Project Note Securities—10%
GNMA Construction Loan Securities—12%
GNMA Mobile Home Securities—20%

Under PTC's rules, a certain percentage, as determined by PTC, (referred to in PTC's rules as the "Applicable Percentage") of the market value of securities is included in the computation of participants' Net Free Equity. Net Free Equity of zero or greater is required to be maintained by participants in each of its Agency, Pledgee Transfer, or Proprietary accounts in order for transactions to be processed. PTC has the right to borrow against or liquidate the assets in those accounts in the event that a participant's debit balance at the end of the day is not satisfied. Net Free Equity is calculated as the sum of:

(1) The cash balance;
(2) The Applicable Percentage of the market value of securities in the Account;
(3) The value of Optional Deposits to the Participants Fund which are allocated to that Account; minus
(4) Reserve on Gain.

The Applicable Percentage is determined by deducting certain percentages from the market value of securities held by PTC participants. By including only a portion of the market value of securities in Net Free Equity, PTC attempts to limit the risk caused by fluctuations in market value of these securities held in those accounts.

Currently, PTC deducts 5% from the market value of GNMA single family securities to arrive at the Applicable Percentage. PTC has determined that, due to the relative lower liquidity of the Project, Construction and Mobil Home securities referred to above, a higher margin level is appropriate for those securities. The margin level selected was approved by PTC's Risk Management Committee and by PTC's Board of Directors.

Since the proposed rule change promotes the prompt and accurate clearance and settlement of securities transactions, it is consistent with section 17A of the Act and the rules and regulations thereunder applicable to PTC.

(B) Self-Regulatory Organization's Statement on Burden on Competition

PTC does not believe that the proposed rule change will have an impact on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

PTC has not solicited, and does not intend to solicit, comments on this proposed rule change. PTC has not received any unsolicited written comments from its participants or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which PTC consents, the Commission will:

(a) By order approve such proposed rule change, or
(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of PTC. All submissions should refer to File No. SR-PTC-91-07 and should be submitted by July 18, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-15234 Filed 6-26-91; 8:45 am]

BILLING CODE 8010-01-M

[Released No. 34-29346; File No. SR-PHLX-91-02]

Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to the Listing of Long-Term Options on a Reduced Value, Value Line Composite Index

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 11, 1991, the Philadelphia Stock Exchange ("PHLX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.[1]

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PHLX proposes to modify Exchange rule 1001A, to provide for the listing of long-term options on a reduced value Value Line Composite Index ("VLE"). These long-term options on the reduced value VLE will trade independent of and in addition to regular VLE options traded on the Exchange and will be subject to the same rules that govern the trading of the regular VLE options except that the interval between strike prices will be no less than $2.50 instead of $5.00. As a result of PHLX rounding procedures, however, after dividing the VLE by 10, the reduced value index may vary slightly from one-tenth of the full value index.

The text of the proposed rule change is available at the Office of the Secretary, PHLX and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included

[1] The PHLX amended the proposed rule change on May 30, 1991, to adopt a January Expiration cycle for the reduced value long term Value Line Index options contracts. See letter from Murray L. Ross, Secretary, PHLX, to Howard Krammer, Assistant Director, SEC, dated May 30, 1991.

statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The PHLX has been trading index options on the VLE since 1985. The VLE is an arithmetically averaged, broad-based index composed of 1,669 primarily second-tier stocks.

On February 22, 1991, the Commission approved an Exchange proposal to list long term options having up to 36 months to expiration on any of the Exchange's broad-based indexes.[2] Under the current proposal, the PHLX would be permitted to list long term options on a reduced value index that would be computed at one-tenth the value of the PHLX's current VLE. The proposed reduced value long term VLE options will have expirations of up to 36 months.

The PHLX believes the listing of long term reduced value VLE options will provide retail investors with the opportunity to obtain, at an affordable price, long term portfolio protection over a wider range of securities than is presently obtainable through similar products trading on other options exchanges. The PHLX proposes that the long term reduced value VLE options will trade independently of and in addition to regular VLE options.

The reduced value VLE options will be subject to the same rules that presently govern the trading of regular VLE options, including sales practice rules, margin requirements and floor trading procedures, except that strike price intervals will be fixed at no less than $2.50, instead of $5, and position and exercise limits will be aggregated with regular VLE contracts as set forth below.

The PHLX has determined that because positions in the full size VLE options and those in the proposed reduced value VLE options will be based upon the same underlying stock index, positions in regular VLE options will be aggregated with positions in the reduced value VLE options for determining compliance with Exchange rules on position and exercise limits. However, since one full sized VLE contract is equivalent to ten reduced value VLE contracts, each reduced value VLE contract will be considered one-tenth of a regular VLE contract when regular VLE contracts and reduced value VLE contracts are aggregated for position and exercise limit purposes. Thus, for example, under current VLE position limits of 25,000 contracts (with 15,000 in the near term month), an option holder with no full size VLE contracts would be permitted to hold 250,000 reduced value VLE contracts (150,000 in the near term month).

Similar to regular VLE options, the proposed long term reduced value VLE options would feature European exercise (restricting exercise only to the last day of trading). Further, as is the case for all other indexes, the PHLX will continuously calculate and disseminate the underlying index value for the reduced value VLE in addition to the regular VLE.

The PHLX intends to adopt the following procedure in calculating and rounding the reduced value index: The PHLX will divide the VLE calculated value, as provided by Bridge Data, by ten and round the resulting quotient to the nearest one-hundredth. The PHLX states that the digits one through four will be rounded down to the next number and the digits five through nine will be rounded up to the next number. As a result of the one-tenth reduced value feature of the proposed reduced value VLE and application of PHLX rounding procedures, the reduced value index may vary slightly from one-tenth of the full value index.

Upon Commission approval of this proposed rule change, the PHLX intends to list initial option series on the new reduced value VLE with January 1992 and January 1993 expirations. While the initial series listings would have less than 36 months to expiration, options with 36 month expirations would be introduced at each January expiration thereafter. Accordingly, the PHLX intends to introduce long term reduced value VLE options with a January 1994 expiration after the January 1991 expiration.

The Exchange also proposes to retain some flexibility in the listing of new strike prices at each January expiration. The PHLX intends to list either one or two strike prices near or bracketing the then current index level. The PHLX also intends to list standardized puts and calls for each strike price. However, the Exchange only will list a put or a call if two strike prices are introduced.

The Exchange also proposes to add additional strike prices when the index makes a significant move of approximately 10 to 15 percent. Based upon current index levels, a move in the 10 to 15 percent range would approximate a 28 to 42 point market move as measured by the regular VLE. The Exchange believes this procedure will result in the listing of only a limited number of series for any expiration, thereby eliminating confusion that might otherwise be caused by listing a myriad of strike prices and expirations.

The Exchange expects that its proposed policy of listing strike prices on the reduced value VLE will permit the offering of options at premiums between $2 and $7 ($200 to $700 per contract) based upon current market volatility and other pricing considerations. The Exchange believes that such premiums appear to be in the desired range of prices that investors have favored in trading index warrants. The Exchange further believes that such premiums could not be achieved by using full size VLE options without the listing of strike prices so deeply out of the money and away from the current index value as to offer investors limited ability to participate in the market or protect a portfolio of primarily secondary stocks.

The PHLX believes that the proposed rule change is consistent with section 6(b)(5) of the Exchange Act because the listing of long term options on a reduced value VLE will facilitate transactions in securities and protect investors and the public interest. The Exchange also believes that the proposed rule change is consistent with the requirements under section 6(b)(5) that the rules of the Exchange be designed to promote just and equitable principals of trade and to protect the investing public.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will not impose an inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has requested that the proposed rule change be given accelerated effectiveness pursuant to section 19(b)(2) of the Act.

[2] Securities Exchange Act Release No. 28910 (February 22, 1991) 56 FR 9032 (March 4, 1991).

The Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5).[3]

The Commission believes that the Exchange's proposal to list reduced value index options, computed at one-tenth of the value of the VLE, will facilitate transactions in options by providing investors with additional means to hedge equity portfolios against long-term market risk.[4] In particular, the Commission believes that options on a reduced value VLE will serve the needs of retail investors by providing them with the opportunity to use long-term options to protect their portfolios from long-term market moves at a reduced cost. In addition, options on a reduced value VLE may result in options premiums more affordable to retail investors.

The Commission also believes that trading in options on the reduced value VLE will not have an adverse market impact or be susceptible to manipulation. Previously, the Commission has determined that the VLE is a broad-based index. The Commission does not believe that merely changing this index by dividing its value by 10 will change this determination. The reduced value VLE will contain the same stocks with the same weightings as the full value index on which it is based (*i.e.* the VLE) and will be calculated in the same manner as that index (with the exception of being 1/10th its value). In addition, the Commission believes that any potential manipulation concerns raised by options on a reduced value VLE is minimized by the fact that positions in these options will be aggregated with positions in options on the full value VLE for position and exercise limit purposes. Moreover, the Commission notes that the same Exchange surveillance procedures for regular VLE options will be used for the reduced value VLE options.

The Commission also believes that reducing the strike price intervals for the reduced value index options is reasonable given the fact that any changes in the value of the reduced value VLE will occur at a rate which is 1/10th of the rate at which the value of the VLE will change. Finally, the Commission believes that the PHLX's proposed procedures for listing new strike prices is reasonable since it provides the Exchange with some flexibility in listing new strike prices which will, in turn, provide investors with a better opportunity to choose an options contract that meets their investment objectives. The Commission does not believe that the proposal by itself will result in a proliferation of strike prices since the proposal requires the reduced value VLE index to make a significant move of approximately 10 to 15 percent before additional strike prices can be added.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register.** The PHLX's proposal to list options on a reduced value VLE is identical to a proposal by the American Stock Exchange, Inc. ("AMEX") to trade options on a reduced value Major Market Index that was approved on November 14, 1990.[5] The AMEX proposal was subject to the full notice and comment period and did not receive any comments, and the Commission does not find any different regulatory issues arising out of the PHLX proposal. Thus, the Commission believes it is appropriate to approve the proposed rule change on an accelerated basis in order to facilitate competition between the exchanges for product services, which, in turn, should benefit public investors. The Commission believes, therefore, that granting accelerated approval of the proposed rule change is appropriate and consistent with section 6 of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by July 18, 1991.

It Is Therefore Ordered, Pursuant to section 19(b)(2) of the Act [6] that the proposed rule change (SR–PHLX–91–02) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Dated: June 19, 1991.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–15238 Filed 6–26–91;8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–29352; File No. SR–Phlx–90–03]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Exchange Arbitration Procedures

I. Introduction

On October 1, 1990, the Philadelphia Stock Exchange, Inc. ("Phlx") or ("Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and rule 19b–4 thereunder,[2] a proposed rule change to amend its arbitration rules and procedures. Specifically, the Phlx proposes to delete and replace current Phlx rule 950, which governs arbitration, in its entirety. The Phlx also proposes to amend By-Law article X, section 10–8 which governs its Arbitration Committee. The proposed rule change is designed to address numerous issues regarding the fairness and efficiency of the arbitration process administered by the Phlx as well as to institute new fees applicable to customer and member disputes and to adopt new requirements for the use of predispute arbitration agreements by Exchange members in agreements with customers. Amendments No. 1, 2 and 4, submitted to the Commission on February 13, 1991, March 18, 1991 and April 26, 1991,

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[3] 15 U.S.C. 78f(b)(5) (1988).

[4] Pursuant to section 6(b)(5) of the Act, the Commission must predicate approval of any new securities product upon a finding that the introduction of such product is in the public interest. Such a finding would be difficult with respect to a product that served no hedging or other economic function because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns.

[5] See Securities Exchange Act Release No. 28613 (November 14, 1990) 55 FR 48307 (November 20, 1990) (order approving SR–AMEX–90–14).

[6] 15 U.S.C. 78s(b)(2) (1988).

[7] 17 CFR 200.30–3(a)(12) (1990).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1990).

respectively, make several technical and conforming changes to the Exchange's arbitration rules under its original rule filing.[3] Amendment No. 3, submitted to the Commission on April 8, 1991, makes a minor technical change to proposed rule 950, section 5 and section 8 with respect to the Exchange's ability to decline to accept jurisdiction over arbitration matters that already are subject to proceedings in another forum.[4]

The Phlx's rule filing is substantially similar to rule filings of the New York Stock Exchange ("NYSE"), the National Association of Securities Dealers ("NASD"), and the American Stock Exchange ("Amex") that were approved by the Commission on May 10, 1989.[5] Similar rule filings submitted by the Chicago Board Options Exchange ("CBOE"), the Midwest Stock Exchange ("MSE"), the Pacific Stock Exchange ("PSE"), and the Cincinnati Stock Exchange ("CSE") also were approved by the Commission on August 2, 1989, August 25, 1989, July 5, 1989, and October 11, 1990, respectively.[6]

[3] Amendments No. 1, 2 and 4 conform the Phlx's proposed rule change to either the Exchange's current arbitration rules or the current Uniform Code of Arbitration as developed through the auspices of the Securities Industry Conference on Arbitration ("SICA").

[4] See letter from Lydia Gavalis, Phlx to Mary Revell, Branch Chief, Commission, dated April 4, 1991 ("April 4 letter"). The Exchange originally sought to include a statement in proposed section 5, Legal Proceedings, which would specify that the Exchange would not accept for arbitration cases that are subject to an outstanding legal proceeding where a court has not authorized the parties to seek an arbitration award. The Phlx explained that this provision was intended to provide parties with notice that the Exchange would not accept jurisdiction under such circumstances and to prevent parties from attempting to file concurrent proceedings in different forums. See letter from Lydia Gavalis to Mary Revell, dated April 2, 1991. The Phlx, however, later determined to amend section 5 to delete that provision and add a commentary referencing proposed section 8(b). Proposed section 8(b) provides that the Director of Arbitration has the right to decline the use of arbitration where the dispute, claim, or controversy is not a proper subject matter for arbitration. The Phlx also determined to amend section 8(b) in order to provide, in a commentary to that section, that the Exchange would decline to accept jurisdiction over arbitration matters that already are subject to proceedings in another forum. See April 4 letter.

[5] Securities Exchange Act Release No. 26805 (May 10, 1989), 54 FR 21144 (May 16, 2989) (Order approving File Nos. SR–NYSE–88–08, SR–NYSE–88–29, SR–NASD–88–29, SR–NASD–88–51, SR–NASD–89–19 and SR–Amex–88–29).

[6] Securities Exchange Act Release No. 27083 (August 2, 1989), 54 FR 32731 (August 9, 1989) (Order approving File No. SR–CBOE–89–06); Securities Exchange Act Release No. 27187 (August 25, 1989), 54 FR 36926 (September 5, 1989) (Order approving File No. SR–MSE–88–1); Securities Exchange Act Release No. 28185 (July 5, 1990), 55 FR 28740 (July 12, 1990) (Order approving File No. SR–PSE–88–19); and Securities Exchange Act Release No. 28532 (October 11, 1990), 55 FR 42662 (October 22, 1990) (Order approving File No. SR–CSE–90–03).

The proposed rule change was noticed in Securities Exchange Act Release No. 28637 (November 21, 1990), 55 FR 49741 (November 30, 1990). No comments were received on this proposal. This Order approves the proposed rule change, as amended.[7]

II. The Proposal

A. Proposed Amendments

1. Service of Pleadings

The Phlx proposes to modify the procedures for service of pleadings. Currently, Phlx rule 950, section 13 requires the Director of Arbitration to serve the Submission Agreement, the Statement of the Claim, the Answer, Counterclaim, Third-Party Claim, Reply or other responsive pleadings on the parties. As the number of arbitrations has increased, using the Director of Arbitration as an intermediary for service of the pleadings has added unnecessarily to delays in processing arbitration hearings and to the cost of operating the arbitration system. The Phlx, in revised rule 950, section 21, proposes to serve only the initial pleadings in a case, the Submission Agreement and the Statement of the Claim, and to require that parties serve all subsequent pleadings directly upon one another. This approach is intended to save administrative time and costs while continuing to ensure that respondents receive adequate notice of the institution of arbitration proceedings.

Under the proposal, parties also will be required to supply the Director of Arbitration with sufficient additional copies of the pleadings for the arbitrator(s).[8] In addition, amended rule 950, section 21 specifies that service by first-class postage prepaid or by overnight mail service is considered to be made on the date of mailing and service by any other means is considered to be made on the date of delivery. The proposal also provides that if a member firm and a person associated with a member firm are named parties to an arbitration proceeding at the time of the filing of the claim, service on the person associated with the member firm may be made on the associated person or the member firm, which would be required to serve the associated person.[9]

[7] The text of the proposed rule change, as amended, is available for inspection at the Phlx and at the Commission.

[8] The Exchange proposes to adopt similar service procedures for arbitration proceedings conducted pursuant to rule 950, section 9 simplified arbitration.

[9] Amended rule 950, section 21 provides that if the member firm does not undertake to represent the associated person, the member firm shall serve the associated person with the Statement of the Claim, advise all parties and the Director of Arbitration of that fact, and provide the associated person's current address.

2. Classification of Arbitrators

The arbitration panels at the SROs for cases involving public customers historically have been composed of a majority of public arbitrators and a minority of industry arbitrators. However, there have not been clear requirements or specifications for who may serve as a public arbitrator. Under the Phlx's proposal, amended rule 950, section 15 would specify who may not serve as a public arbitrator and who may serve as an industry arbitrator.

The Exchange's proposal addresses the potential for real or apparent bias on the part of public arbitrators who may have some professional or personal association with the securities industry. Phlx rule 950, section 15 defines as an industry arbitrator a person who is associated with a member or other broker-dealer, municipal securities dealer, government securities broker or dealer or has been associated with any of the above within the past three years or has retired from any of the above. The rule also deals with the appropriate role in the arbitration system of professionals such as accountants or lawyers who provide services to securities industry clients. The rule would classify as industry arbitrators, rather than public arbitrators, accountants, attorneys, or other professionals who have devoted twenty percent or more of their professional work to securities industry clients within the last two years. In addition, the rule excludes from service as a public arbitrator persons who are spouses or other members of the household of a person associated with a registered broker, dealer, municipal securities dealer, government securities broker or government securities dealer.

The Phlx is proposing disclosure provisions designed to assist parties in assuring that the panel assigned to each case is appropriately balanced. Under proposed rule 950, section 17, the employment histories of the arbitrators for the past ten years as well as the information provided by the arbitrators pursuant to separate disclosure obligations contained in proposed rule 950, section 19 will also be disclosed to the parties.[10]

The amendments regarding the classification of arbitrators are designed to promote impartial knowledgeable

[10] For a summary of the section 19 disclosure requirements, see infra section 3 of this Order.

decisions in the arbitration of disputes between investors and broker-dealers. The reclassification of securities industry retirees to the industry arbitrator pool and the establishment of a three year period before a former securities industry employee may serve as a public arbitrator should relieve doubts that investors may have had regarding the impartiality of the public arbitrator pool. Similarly, the decision to exclude from the public arbitrator pool lawyers, accountants and other professionals who regularly service the securities industry makes clearer the distinctions between the two arbitrator pools.

3. Arbitrator Disclosure and Background Information to be Supplied to the Parties

The Phlx also is proposing changes to its rules with regard to what disclosures arbitrators must make and how that disclosure is supplied to the parties. Under current rule 950, section 11, each arbitrator is required to disclose of the Director of Arbitration any circumstances which might preclude the arbitrator from rendering an objective and impartial decision. The Director of Arbitration may remove an arbitrator, prior to the commencement of the first hearing session, who discloses such information. The Director of Arbitration is required to inform the parties of any information disclosed, if the arbitrator who disclosed the information is not removed. In addition, current rule 950, section 9 requires that the Director of Arbitration inform the parties of the names and affiliations of the arbitrators at least eight business days prior to the date of the initial hearing.

The Exchange's proposed rule 950, section 17 would provide to the parties all of the information disclosed by arbitrators pursuant to the amended disclosure rules at the time when the parties are given the arbitrators' names. This change would provide full disclosure of the arbitrators' backgrounds at the earliest possible stage in the process, and should therefore avoid unnecessary postponements of hearings and promote knowledgeable use of challenges. In addition, the Exchange's proposed rule change also would provide guidance to arbitrators about the types of relationships that may create potential conflicts of interest.

Proposed rule 950, section 19(a) establishes specific disclosure obligations of arbitrators. The rule requires that each arbitrator disclose any direct or indirect financial or personal interest in the outcome of the arbitration. The rule also requires that arbitrators disclose any existing or past financial, business, professional, family or social relationships that are likely to affect impartiality or might reasonably create an appearance of partiality or bias. These disclosures extend to any relationship the arbitrators may have with any party, or its counsel, or with any individual whom they have been advised will be a witness. The rule requires arbitrators to disclose any such relationship involving members of their families or their current employers, partners, or business associates.

Phlx rule 950, section 19(b) requires prospective arbitrators to make a reasonable effort to inform themselves of any interests or relationships described above. Phlx rule 950, section 19(c) specifically advises arbitrators that the duty to disclose these interests or relationships is an ongoing duty, and that any person who serves as an arbitrator must disclose at any stage of the arbitration proceeding any such interests, relationships, or circumstances that arise, or that are recalled or discovered. Further, the Director of Arbitration will retain the ability to remove an arbitrator, prior to the commencement of the first hearing, based on the information disclosed pursuant to the rule. Parties are to be informed of any information disclosed pursuant to the rule, if the arbitrator has not been removed.[11]

As discussed above, Phlx rule 950, section 17 provides that parties will be informed of the names and business affiliations of the arbitrators for the past ten years, as well as any information disclosed pursuant to rule 950, section 19 at least fifteen business days prior to the date set for the initial hearing. Under this rule, parties also may make further inquiry through the Director of Arbitration concerning the arbitrators' background.

4. Appointment of Replacement Arbitrators on a Panel

The Phlx also is proposing two changes with respect to its ability to appoint a replacement arbitrator on a panel when a vacancy occurs. The first of these changes concerns the ability of the Director of Arbitration to replace an arbitrator who becomes unavailable to serve prior to the first hearing session. Under the proposed amendment, if after appointment and prior to the first hearing session an arbitrator resigns, dies, withdraws, is disqualified or otherwise is unable to perform as an arbitrator, Phlx rule 950, section 17 authorizes the Director of Arbitration to appoint a replacement arbitrator. The rule also explicitly provides that parties are entitled to receive the same disclosure regarding the background of the replacement arbitrator as they receive for the initial arbitrator(s), and have the same right to request more information, and to challenge the arbitrator as provided in the rules, although within a shorter time frame.

The second change concerning the ability to appoint replacement arbitrators addresses situations where an arbitrator resigns, dies, withdraws, is disqualified, or otherwise is unable to perform as an arbitrator after the commencement of the first hearing session but prior to the rendition of the award. Under the Phlx's existing rules, if a vacancy occurs under these circumstances, both parties must consent to either the appointment of a replacement arbitrator or the continuation of the proceedings with the remaining arbitrator(s).

Proposed rule 950, section 20 permits the remaining arbitrators to continue with the hearing and the determination of the controversy. However, under the proposal, if a party objects, a replacement arbitrator would be appointed by the Director of Arbitration, under the same procedures as for the replacement of an arbitrator prior to the first hearing, in the case of public customer controversies. A replacement arbitrator would be appointed by the Director of Arbitration from the next committee member in alphabetical rotation in the case of member controversies.

The rule is designed to permit parties in particular cases to make the decision that makes the most sense for their case. For example, in cases where only peripheral issues have been dealt with and relatively little progress has been made, it may make sense for the parties to request a replacement arbitrator. Conversely, where the hearings have progressed significantly, or are in fact substantially completed, it may make less sense for parties to request a replacement arbitrator, who then would have to learn all that occurred in his or her absence.

In the event that parties do request a replacement arbitrator, the arbitrators will have the authority to require the rehearing of part or all of the case.

[11] Once the arbitration panel is sworn, it controls all of the procedural aspects of the hearing. Accordingly, under the Uniform Code and the Phlx's arbitration rules, the Director of Arbitration may not remove an arbitrator after the hearings have begun. An arbitrator should be alert to the guidelines set out in the American Bar Association/American Arbitration Code of Ethics for Arbitrators in Commercial Disputes ("ABA/AAA Code") and the applicable law with respect to arbitrator bias, and remove himself or herself from the panel when conflicts arise after hearings have begun. See Canon II, E.(2) of the ABA/AAA Code.

effectively requiring the appointment of another panel, as is appropriate in their judgment. With this rule change, however, a party may no longer delay the resolution of the dispute by insisting on a rehearing whenever an arbitrator unexpectedly is unable to continue in his or her hearing of a case.

5. Availability of Small Claim Procedures and the Number of Arbitrators Required to Hear a Case

The Phlx proposes to amend rule 950 to increase to $10,000 from $5,000 the monetary claim limit for cases to be heard under the simplified procedures developed in the Uniform Code. Under these expedited procedures, a single arbitrator decides a casebased upon the papers submitted by the parties. No oral hearing is held unless requested by the investor, or ordered by the arbitrator. This change is designed to decrease the costs of arbitration.[12]

Phlx rule 950, section 15 wou1d change the number of arbitrators required to compose an arbitration panel. Phlx rule 950, Section 8 currently provides that where the matter in controversy does not exceed $500,000 or where the matter in controversy does not involve or disclose a money claim, the Director of Arbitration shall appoint an arbitration panel of no less than three and no more than five arbitrators. Further, the current rule provides that where the amount in controversy is $500,000 or more, the Director of Arbitration shall appoint a panel consisting of five arbitrators, unless the parties agree in writing to a panel of three arbitrators. Amended rule 950, section l5 would require the Director of Arbitration to appoint an arbitration panel that consists of no fewer than three nor more than five arbitrators where the amount in controversy exceeds $10,000. In order to alleviate administrative delays and costs frequently encountered in such cases, the proposed rule would eliminate the requirement of five member panels and allow the Director of Arbitration to exercise discretion in appointing panels of no fewer than three and no more than five arbitrators in cases not heard under the Phlx's simplified arbitration proceedings.

6. Discovery

The Phlx is proposing significant changes to its arbitration discovery rules, which should assist in the early resolution of discovery disputes and encourage the efficient resolution of cases on their merits. Under the current Exchange rules, parties have been expected to exchange documents informally and voluntarily. Parties also may request documents pursuant to a subpoena under the existing rules, but these do not have to be produced until the day of the hearing.

Proposed rule 950, section 28 expands party access to prehearing discovery and provides specific time frames for parties to request information from parties and for responding to such an information request. The rule also establishes a mechanism for prehearing matters where needed. Under the Phlx's proposed rule change, arbitrators also may order depositions when appropriate.

Proposed rule 950, section 28(a) continues the policy established under the existing rules for parties to cooperate to the fullest extent possible in the voluntary exchange of documents and information. In the event that voluntary exchanges are not sufficient, however, the rule establishes a clear framework for document production and information requests.

Proposed rule 950, section 28(b) provides that a party may serve a written request for information or documents 20 business days after the service of the claim or upon the filing of an answer, whichever is earlier. All parties are to receive copies of the request, and parties must attempt to work out disputes regarding the request between themselves before an objection to the request is filed. Unless the requesting party allows more time, information requests must be satisfied or objected to within 30 business days from the date of service. The party who made an information request has 10 business days from the receipt of the objection to respond to the objection.

Under the proposal, a party whose information request had not been satisfied may request in writing that the Director of Arbitration refer the matter to a prehearing conference. Parties may also find that there are other matters in addition to unresolved information requests that require the assistance of a prehearing conference. Proposed rule 950, section 28(d) provides that the Director of Arbitration may appoint someone to preside over the prehearing conference. The prehearing conference may be held either in person or by telephone conference call, and is designed to help the parties to reach agreement on such matters as the exchange of information, exchange or production of documents, identification of witnesses, identification and exchange of hearing documents, stipulations of fact, identification and briefing of contested issues, and any other matter which will expedite the arbitration proceedings.

When a prehearing conference is unable to resolve any of these issues, rule 950, section 28(e) provides for the Director of Arbitration to appoint a single arbitrator to decide the issues outstanding. The rule allows the arbitrator to issue subpoenas, direct appearances of witnesses, direct the production of documents, set deadlines for compliance, and issue any other ruling which will expedite the arbitration process and will permit any party to develop its case fully. The rule provides that the single arbitrator appointed to decide prehearing matters involving public customers would be a public arbitrator, except where public customers have requested a majority of securities industry arbitrators for their panel.

Other amendments to the prehearing provisions require the parties to serve on one another, at least eight business days prior to the first hearing, copies of documents in their possession that they intend to present at the hearing and identify witnesses that they intend to present at the hearing. Under proposed rule 950, section 28(c), arbitrators may exclude from the arbitration any documents or witnesses not identified at that time. The provision does not extend to documents or witnesses that parties may use for cross-examination or rebuttal.

The Phlx also is proposing to amend its rules regarding subpoenas. In proposed rule 950, section 29(a), the Phlx proposes to require that all parties be given a copy of a subpoena upon its issuance. In addition, the Phlx proposes to provide in section 29(b) that the arbitrator(s) shall be empowered to direct the appearance of any person employed or associated with any member of the Exchange and/or the production of any records in the possession or control of such persons or members, without resort to the subpoena process. Further, section 29(b) would provide that unless otherwise directed by the arbitrators, the party requesting the appearance of a person or the production of documents under this section would bear all reasonable costs of the appearance and/or production.

7. Preservation of a Record

The Phlx proposes to amend its arbitration rules to assure that adequate records of arbitration proceedings are made and preserved. These records are necessary for court use in conjunction with any judicial review of arbitration

[12] Phlx rule 950, section 9(c) would establish filing fees ranging from $15 to $200 in cases where the amount in controversy is $10,000 or less.

proceedings. Proposed rule 950, section 33 would require that a verbatim record by stenographic reporter or tape recording be maintained. The rule would further provide that if a party to a proceeding elects to have the record transcribed, the cost of such transcription shall be borne by that party, unless the arbitrators direct otherwise. The arbitrators also may direct that the record be transcribed. If a record is transcribed at the request of a party, the rule requires that a copy shall be provided to the arbitrators.

8. Content and Public Availability of Arbitration Awards

The Phlx's proposed rule for arbitration awards expands both the content and availability of arbitration awards. Prior to the Commission's May 10, 1989 approval of the amended arbitration rules of the Amex, NASD, and NYSE, the only information generally available to the public regarding SRO arbitration cases was the percentage of investors that received some portion of the amount they claimed against their broker-dealer. No data had been previously available with respect to a particular arbitrator's awards. The Phlx's proposal, like the rules of the other SROs, affords substantially more public access to the results of this process of dispute resolution.

Proposed rule 950, section 37 provides that all awards shall be in writing and signed by a majority of the arbitrators or in such manner as is required by applicable law with respect to public controversies. With respect to member controversies, the proposed rule requires that the Chairman of the panel certify the decision of the panel in writing. Proposed rule 950, section 37 also provides that awards shall contain the names of the parties, a summary of the issues in controversy, the damages and/or other relief requested, the damages and/or other relief awarded, a statement of any other issues resolved, the dates the claim was filed and the award rendered, the number and dates of hearing sessions, the location of the hearing(s), the names of the arbitrators and the signatures of the arbitrators concurring in the award. All awards involving public customers and their contents, excluding the names of the arbitrators, are to be made public. The proposed rule further provides that a party to an arbitration involving a public customer may request that the Director of Arbitration provide copies of all awards rendered by the arbitrators chosen to decide his or her case. A party wishing to obtain such information under this section must notify the Director of Arbitration within three business days of receipt of notification of the identity of the person(s) named to the panel.

9. Arbitration Fees for Customer Disputes

The Phlx also proposes to clarify the potential fees to parties of pursuing a case through the arbitration procedures. The arbitration fee proposal represents a significant change in the fees that may be assessed by the arbitrators for particular cases. Proposed rule 950, section 39(a) would establish fees which range from $15 to $1,000 for amounts in dispute ranging from $1,000 or less to more than $500,000. The proposed rule also would provide that where the amount in dispute is $10,000 or less, no additional deposits shall be required despite the number of hearing sessions. Proposed section 39(a), however, would provide that where the amount in dispute is above $10,000 and multiple hearing sessions are required, the arbitrators may require any of the parties to make additional deposits for each additional hearing session.

The Phlx proposes to clarify the definition of a "hearing session" in the proposal. A hearing session under proposed rule 950, section 39 would be any meeting between the parties and the arbitrator(s), including a pre-hearing conference with an arbitrator, which lasts four hours or less. The current Phlx rules do not define a hearing session.

Proposed rule 950, section 39(d) would raise to $200 from $100 the minimum deposit for cases where no money damages are claimed. Further, section 39(a) would provide that all parties who file claims, such as counterclaims, third party claims, and cross-claims, are required to pay deposits unless the deposit is waived by the Director of Arbitration. Under the Phlx's existing rule, deposits are required only of original claimants.

Proposed rule 950, section 39(c) clarifies that arbitrators, in their awards, may determine the amount chargeable to the parties as forum fees and determine which party shall bear the costs of the arbitration. This section would specify that where the amount in dispute is $10,000 or less, the total fees to the parties shall not exceed the amount deposited. In addition to the forum fees, the section would provide that the arbitrators may determine in their awards the amount of costs incurred for adjournments, subpoenas, transcribing a record, and other costs and expenses contemplated by agreement between the parties or permitted by applicable law.

Proposed rule 950, section 39(e) provides that if a matter is settled or withdrawn prior to the commencement of the first hearing session, the parties are entitled to a refund of all but $100 of the amount deposited with the Exchange. This change is based on the increased expenses associated with arbitration empanelment and hearing arrangements. This section, however, would not apply to claims filed under the Simplified Arbitration procedures proposed by the Exchange.

Proposed rule 950, section 39(f) would provide that any matter submitted and later settled or withdrawn subsequent to the commencement of the first hearing session, may be subject to a refund of deposits, if any, as determined by the panel of presiding arbitrators. Proposed section 39(g) would specify that in the case of any matter settled or withdrawn subsequent to the commencement of the first hearing session, the arbitrators may assess forum fees and costs for adjournments, subpoenas, and transcribing a record.

10. Predispute Arbitration Clauses

The Phlx also proposes to adopt a provision governing the use of predispute arbitration clauses with customers. Revisions to predispute arbitration clauses were designed through the auspices of SICA to improve disclosure to customers in account opening agreements and to restrict the content of the arbitration clauses. Under the proposed rule change, rule 950, section 42 would require broker-dealers that employ predispute arbitration clauses to place immediately before the clause introductory language that would inform customers that they are waiving their right to seek remedies in court, that arbitration is final, that discovery is generally more limited than in court proceedings, that the award is not required to contain factual findings and legal reasoning, and that the arbitration panel typically will include a minority of arbitrators associated with the securities industry.

Proposed rule 950, section 42 would require that the disclosure language be highlighted in four ways. First, large or otherwise distinguishable type must be used. Second, the disclosure language must be set out "in outline form so as to be noticeable to readers. Third, a statement, also highlighted, that provides that the agreement contains a predispute arbitration clause and indicates where that clause is located in the contract, must be inserted into the agreement immediately preceding the signature line. Fourth, a copy of the agreement containing a predispute

arbitration clause must be given to the customer, who is to acknowledge receipt of the agreement, either in the agreement itself or in a separate document.

In addition, proposed rule 950, section 42 would prohibit SRO members from having agreements with customers that limit or contradict the rules of any SRO, or limit the ability of a party to file any claim in arbitration or limit the ability of the arbitrators to make any award.

11. Controversies Between Members

The Phlx's member-member controversies currently are arbitrated before a quorum of the Exchange's Arbitration Committee, pursuant to Phlx By-Law section 10–8. The Phlx proposes to amend By-Law section 10–8 in order to authorize the implementation of a panel system of Arbitration Committee members for arbitration of member-member controversies.[13] The Phlx states that this rule change is necessary to overcome difficulties in scheduling and conducting hearings and in deliberating the merits of each case. As a result of the proposal, the Phlx believes that arbitration between members will become a more expeditious process because several arbitrations may be scheduled concurrently.

The Phlx also proposes to amend By-Law section 10–8 to clarify the Exchange's jurisdiction in member-member controversies. The proposed amendments would include Exchange jurisdiction over associated persons in their capacity as such and would require that a dispute subject to arbitration arise in connection with the securities business of a member, member organization and/or associated person.

The Phlx proposes to add subsection (c) to section 10–8 to enable the Exchange's Business Conduct Committee to impose penalties for noncompliance with the Arbitration Code. Specifically, subsection (c) would provide that it may be deemed conduct inconsistent with just and equitable principles of trade for a member, member organization, or person associated with a member to fail to submit to arbitration under the By-Law, to fail to provide any document properly requested pursuant to discovery or to fail to honor an award of the arbitration panel.

The Phlx also proposes to amend rule 950 to incorporate procedures for controversies between members in its arbitration rules. Proposed rule 950, section 3 would require that member controversies be heard by a panel of Committee persons composed of on-floor and off-floor persons, appointed to serve on the panels by the Director of Arbitration in alphabetical rotation. This section also would provide that the Committee shall consist of a pool of 25 persons, 15 members or persons associated with an on-floor member and/or participant organizations and 10 members or persons associated with off-floor members or participant organizations. Further, the section would provide that a member controversy panel must consist of not less than five Committee persons when the amount in controversy does not exceed $100,000 and not less than seven Committee persons when the amount in controversy exceeds $100,000.

Proposed rule 950, section 6 would specify the circumstances for required submission of member controversies under the Exchange's arbitration procedures. Proposed rule 950, section 7 would provide that, except as otherwise provided in sections 1 through 6 of the arbitration rules and unless the context otherwise requires, the rules and procedures applicable to public customer arbitrations as set forth in sections 8 through 41 of the Phlx's arbitration rules also would apply to member controversies.

Proposed rule 950, section 41 would establish a schedule of arbitration fees for member and clearing controversies. Section 41(d) would establish a $500 minimum charge for cases where no money damages are claimed. This section also would require the deposit of $500 where the amount in dispute is less than $100,000 and require the deposit of $1,000 where the amount in dispute is above $100,000. In addition, proposed section 41(e) of rule 950 would provide that if a case is settled or withdrawn prior to the commencement of the first hearing session, the parties will be entitled to a refund of all but $125 of the amount deposited with the Exchange. The remaining proposed arbitration fee rules for member and clearing controversies are similar to the rules that the Phlx proposes to adopt for public customer disputes.

12. Miscellaneous

The Phlx's proposed rule change also amends several other of its rules that govern the administration of its arbitration forum. First, the Exchange proposes to adopt section 2 of rule 950 to specify that the Board of Governors shall appoint a Director of Arbitration. This section would provide that the Director of Arbitration shall be directly responsible to the Arbitration Committee and shall report to the Committee at periodic intervals established by the Committee. Second, the Exchange proposes to adopt section 4 of rule 950 in order to provide that the submission of any matter to arbitration does not limit or preclude any right, action or determination by the Exchange which it would otherwise be authorized to adopt, administer or enforce.

Third, the Phlx proposes to adopt section 5 of rule 950 in order to specify that during the arbitration of any matter, a party may not prosecute or commence any suit, action or proceeding against any other party touching upon any of the matters referred to arbitration under the Exchange's procedures. Conversely, the Exchange also proposes to adopt a commentary to proposed rule 950, section 8(b) which would provide that the Exchange shall not accept arbitration matters that already are subject to proceedings in another forum.

Fourth, in arbitrations involving multiple claimants, respondents, and/or third party respondents, proposed rule 950, section 18 provides the claimants, respondents, and third-party respondents with one peremptory challenge each of a proposed arbitrator, and with unlimited challenges for cause. Fifth, proposed rule 950, section 35 provides for amendments to pleadings; however, after an arbitration panel has been appointed, amended pleadings other than responsive pleadings may not be filed unless the panel consents to the amendment. Sixth, proposed rule 950, section 40 provides that when a member firm files a claim against a non-member, the member shall pay a nonrefundable filing fee of $500 in addition to all other fees, deposits, or costs which may be required.

Finally, in addition to the rules discussed above, the Exchange's proposal adopts other rules that substantially replicate their current counterparts in the Phlx rules.[14] Except

[13] As discussed *infra*, a member-member controversy includes disputes between employees or registered representatives of a member firm and the member firm itself, as well as disputes between member firms.

[14] The Exchange's proposed rules that substantially replicate their current versions are found in rule 950, sections 8 ("Required Submission"); 10 ("Hearing Requirements—Waiver of Hearing"); 11 ("Time Limitation Upon Submission"); 12 ("Dismissal of Proceedings"); 13 ("Settlements"); 14 ("Tolling of Time Limitations for the Institution of Legal Proceedings"); 22 ("Designation of Time and Place of Hearing"); 23 ("Representation by Counsel"); 24 ("Attendance at Hearings"); 25 ("Failure to Appear"); 26 ("Adjournments"); 27 ("Acknowledgement of Pleadings"); 30 ("Evidence"); 31 ("Interpretation of Code"); 32 ("Determinations of Arbitrators"); 34 ("Oath of Arbitrators and Witnesses"); 36 ("Reopening of Hearings"); and 38 ("Miscellaneous").

for technical and conforming changes, these proposed rules do not differ materially from the current rules upon which they are modeled.

B. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b)(5) of the Act [15] which requires that national securities exchanges have rules that are designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, provide for the equitable allocation of fees and, in general, protect investors and the public interest. The Exchange states that the proposed amendments will further the objectives of section 6(b)(5) by making the arbitration process a more efficient, expeditious and inexpensive forum for dispute resolution.

III. Discussion and Conclusions

The Commission has considered carefully the Exchange's proposed rule change, and finds, for the following reasons, that the proposed rule change is consistent with the requirements of section 6 of the Act and the rules and regulations thereunder applicable to a national securities exchange. In particular, the Commission finds that the proposed rule change is consistent with the requirements of sections 6(b) (4) and (5) of the Act,[16] which require that national securities exchanges have rules designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to provide for an equitable allocation of fees, and, in general, to protect investors and the public interest. The Commission believes the proposed rule change significantly advances the public interest in Exchange arbitrations and should improve the speed and efficiency of arbitration, while maintaining the traditional qualities of arbitration.

The Phlx developed these changes to its arbitration rules through the auspices of SICA. The securities industry's SROs have worked together over the past twelve years to develop uniform arbitration rules through SICA, which is comprised of a representative from each SRO that administers an arbitration program,[17] a representative of the securities industry, and four representatives of the public.

On September 10, 1987, after a review of securities industry-sponsored arbitration, the Commission sent to SICA a letter that set out its views regarding the need for changes to the Uniform Code of Arbitration ("Uniform Code").[18] The Commission also sent letters to the SROs on July 8, 1988 requesting that the SROs review the issues raised by the current use of mandatory predispute arbitration agreements by their member firms.[19] Since September 1987, SICA and its subcommittees have met regularly to develop proposals in response to the Commission's letters.

The majority of the proposals to amend the Phlx's rules were based on changes in the Uniform Code made by SICA largely in response to the September 1987 and July 1988 Commission letters.[20] The other proposals included in this order were developed to meet concerns that have arisen through the administration of the Exchange's arbitration forum.

As stated above, substantially similar rule filings submitted by the NYSE, Amex and NASD were approved by the Commission on May 10, 1989, and comparable rule filings of the CBOE, MSE, PSE and CSE were subsequently approved by the Commission on August 2, 1989, August 25, 1989, July 5, 1990 and October 11, 1990, respectively. The NYSE's, NASD's and Amex's versions of their respective rules were published for public comment in the **Federal Register**, providing both the public and the broker-dealer community with ample opportunity to comment on the proposed changes that are the subject of this order. All public comments directed at the other SROs' arbitration filings were considered in the context of the review undertaken for the Commission's May 10, 1989 approval order,[21] wherein the Commission addressed fully the significant public dialogue and comment that preceded its action. In light of the Commission's thorough consideration of all comments directed at the SRO arbitration filings that were the subject of the Commission's May 10, 1989 approval order, the substantially similar nature of the Phlx's arbitration proposal, and the benefits that will accrue to investors from the availability of these improved arbitration procedures, the Commission finds that approval of the Phlx's proposed rule change is consistent with the requirements of section 6 of the Act.[22]

The Commission believes that the Phlx's proposed arbitration rules improve the procedures for administering arbitration proceedings. The Commission further believes the proposed rule change appropriately balances the need to strengthen investor confidence in the arbitration systems at the SROs with the need to maintain arbitration as a form of dispute resolution that provides for the equitable and efficient administration of justice. More specifically, the Commission finds that the rule changes affecting the classification of arbitrators, arbitrator disclosure, discovery, the preservation of a record, the form and public availability of awards and guidelines for the use of predispute arbitration clauses significantly advance the efficiency and utility of SRO arbitration for public investors.[23] Likewise, the Commission believes that the Phlx's initiatives with respect to the handling of pleadings, appointment of replacement arbitrators, the use of small claims procedures, and the number of arbitrators should improve the efficiency and speed of arbitration. Because these rules will aid in the just resolution of disputes between investors and broker-dealers as well as the just resolution of disputes between members, the Commission concludes that these rules are designed to prevent fraudulent and manipulative practices, to promote just and equitable principles of trade and, in general, to protect investors and the public interest consistent with section 6(b)(5) of the Act. The Commission also

[15] 15 U.S.C. 78f(b)(5) (1988).

[16] 16 15 U.S.C. §§ 78f(b)(4) and (5) (1988).

[17] The SROs that administer an arbitration program are the Phlx, CSE, NYSE, NASD, Amex, CBOE, MSE, PSE, Municipal Securities Rulemaking Board ("MSRB") and Boston Stock Exchange.

[18] See letter from Richard G. Ketchum, Director, Division of Market Regulation, SEC, to James E. Buck, Senior Vice President, NYSE, dated September 10, 1987. This letter also was addressed separately to each of the other members of SICA.

[19] See letter from David S. Ruder, former Chairman, SEC, to John J. Phelan, Jr., Chairman, NYSE, dated July 8, 1988. This letter also was addressed to the senior executive officers of all other SROs that administer arbitration facilities.

[20] The Exchange's rules developed in response to the Commission's letters are sections 15, 17, 19, 28, 33, 37 and 39(b) of rule 950.

[21] In addition, the Phlx proposal is substantially similar to the CBOE, MSE, PSE and CSE rule filings that were subsequently approved by the Commission. See supra note 5.

[22] Moreover, the Commission finds that approval of the Phlx's proposed rule change is consistent with its May 10, 1989 approval order, and the Commission herein incorporates by reference the relevant portions of its discussions from that order.

[23] The Commission's approval of Phlx rule 950, section 42 and the comparable rules of the NYSE, NASD, Amex, CBOE, MSE, MSRB, PSE and CSE is consistent with the conclusion of the United States Court of Appeals for the Sixth Circuit in *Roney* v. *Goren*, 875 F2d 1218 (6th Cir. 1989) that the Commission has the authority to assure customer choice among SRO arbitration forums.

finds that the fee increases represented by these changes appear to be reasonable and should provide for an equitable allocation of fees among SRO members and investors using the Phlx's arbitration facilities consistent with section 6(b)(4) of the Act.

It therefore is ordered, Pursuant to section 19(b)(2) of the Act,[24] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[25]

Dated: June 20, 1991.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-15268 Filed 6-26-91; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-29342; File No. SR-Phlx-91-15]

Self-Regulatory Organizations; Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Options Floor Procedure Advice C-9—Floor Brokers Trading in Their Customer Accounts

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on May 24, 1991, the Philadelphia Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc. (the "PHLX" or the "Exchange"), pursuant to rule 19b-4 of the Securities Exchange Act of 1934 ("Act"), proposes to amend PHLX Options Floor Procedure Advice ("OFPA") C-9—Floor Brokers and Clerks Trading in their Customer Accounts. OFPA C-9 prohibits the customer orders of floor brokers and floor brokers employees from being handled by co-employees with an interest in the account. The proposed rule change would extend the prohibition to include handling of such orders by co-employees with knowledge that the order is for the customer account of another employee. A copy of proposed PHLX OFPA C-9 is attached as exhibit A.

[24] 15 U.S.C. 78s(b)(2) (1988).

[25] 17 CFR 200.30-3(a)(12) (1990).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

OFPA C-9 currently regulates trading in PHLX options by member firm floor personnel. In addition to prohibiting all employees of member/participant firms from placing orders for execution in their customer accounts while on the floor, this advice also governs how such orders may be handled when received from off-floor. In this regard, the employee's order must be treated the same as any other customer order, except that it cannot be handled by an employee of the same firm who has a beneficial interest in that customer account.

Proposed OFPA C-9 would extend this prohibition to include any co-employee with knowledge that a customer order is on behalf of another employer of the firm; it is proposed that the non-customer employee with knowledge of such information be prohibited from handling the customer order. Noting that some brokerage firms require their employees to place all personal customer orders with that firm in order to appropriately monitor trading by employees, the PHLX proposes to permit handling of that order by associated persons only when those persons do not know that the customer order is actually on behalf of an associate of the firm.

The PHLX believes that this extension serves to decrease the opportunity for advantages to be afforded to customer orders of floor brokers and their co-employees while at the same time providing added protection to the firms in monitoring the trading activities of their employees. In this regard, the proposed rule change is consistent with and furthers the goals enumerated in section 6(b)(5) of the Act; specifically, the proposal is designed to prevent fraudulent and manipulative acts and practices as well as being intended to protect investors and the public interest. Handling an order knowing it is from a co-worker presents a similar conflict of interest and potential for preferential treatment as handling one's own order or one for an account in which one has a proprietary interest. The proposed version of OFPA C-9 will curtail such potential conflicts or abuses.

B. Self-Regulatory Organization's Statement on Burden on Competition

The PHLX does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the PHLX consents, the Commission will:

(A) By order approve such proposed rule change, or,

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

All submissions should refer to the file number in the caption above and should be submitted by July 18, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: June 19, 1991.

Margaret J. McFarland,

Deputy Secretary.

Exhibit A

Proposed text is italicized.

C-9 Floor Brokers and Clerks Trading in Their Customer Accounts

All persons employed on the trading floor in association with a Member or Participant, other than ROTs and Specialists, are prohibited from initiating trades in PHLX options in their customer accounts while on the floor. A Member or Participant firm which accepts an order for the customer account of such a person must process the order through the channels it normally provides for its other customer orders. When any such order is received by the Member or Participant firm and delivered to the floor for execution, it may not be handled by any person with a beneficial interest in the account, or by any associated person with knowledge that the order is for the account of an associate. Once such a person has placed an order for his/her customer account in an option, that person is prohibited from brokering orders in that option for the remainder of that day or until such order has been executed or cancelled whichever is later. This provision shall not apply to any transaction permissable under section 11(a)(1) of the Securities Exchange Act of 1934.

Fine Schedule

C-9

1st Occurrence: 100.00
2nd Occurrence and Thereafter: Sanction is discretionary with Business Conduct Committee

[FR Doc. 91-15266 Filed 6-26-91; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-29340; File No. Sr-Phlx-91-17]

Self-Regulatory Organizations; Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Options Floor Procedure Advice F-12—Responsibility for Assigning Participation on the Foreign Currency Floor

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on May 24, 1991, the Philadelphia Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc. (the "PHLX" or the "Exchange"), pursuant to rule 19b-4 of the Securities Exchange Act of 1934 ("Act"), proposes to add Options Floor Procedure Advice ("OFPA") F-12—Responsibility for Assigning Participation on the Foreign Currency Floor. Proposed OFPA F-12 would place responsibility on all participants in a trade to take certain steps to ensure that participation is clear. These steps include remaining in the trading crowd until participation is determined, not submitting a ticket when participation is not due, and informing the largest participant the extent of participation. A copy of proposed PHLX Options Floor Procedure Advice F-12 is attached as exhibit A.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

The purpose of the proposed rule change is to establish a procedure for determining participation in a trade. As opposed to placing the responsibility for assigning participation solely on one party, such as the specialist or floor broker, proposed OFPA C-9 delineates responsibilities for each participant in the trade. First, each potential participant would be required to immediately express to the largest participant (usually the floor broker who initiated the trade with a customer order) the number of contracts believed to just have been bought or sold. This requirement serves to limit the amount of time that passes between the execution of a trade and a report to the customer, thus reducing the risk of not being able to do the targeted hedge trade due to a delay in confirming the extent of contracts to be hedged. Proposed OFPA F-12 would also require any potential participant to remain in the crowd, not just to notify the largest participant in accordance with the aforementioned requirements, but until the largest participant confirms that indeed this was the correct number of contracts calculated. The PHLX believes that it is both reasonable and necessary to impose such a requirement at least as long as it takes for participants to be clear and in agreement with the largest participant as to the level of participation. It is reasonable because, with but a few exceptions, assignment as to the transacted size of participation is normally confirmed with each participant within seconds of the trade; where it takes longer, it is necessary for all participants to be available to reconstruct what occurred and ascertain levels of participation as quickly as possible. Thus, the proposed rule change aims to achieve quicker reporting of order execution by laying out procedures for assigning participation.

The proposed rule change is consistent with the Act, and in particular, section 6(b)(5), in that it is designed to prevent fraudulent and manipulative acts and practices as well as to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The PHLX does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the PHLX consents, the Commission will:

(A) By order approve such proposed rule change, or,

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by July 18, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: June 19, 1991.

Margaret H. McFarland,

Deputy Secretary.

EXHIBIT A, F-12 Responsibility for Assigning Participation on the Foreign Currency Floor

(*a*) In each instance where a member/participant effects a transaction on the Foreign Currency floor, he must make reasonable efforts to ensure that a meeting of the minds occurred with the contra-side as to confirming the contra-side's participation in the trade. In trades where more than one contra-side is involved, each contra-side must immediately make known to the largest participant his understanding as to his respective level of participation in the trade.

(*b*) No such contra-side who believes that he may have participated in the trade shall leave the crowd until the level of his participation in the trade has been confirmed by the largest participant.

(*c*) No person in the crowd shall submit a ticket for matching on a trade when that person has or should have grounds to believe that he is not due participation in the trade.

(*d*) Disputes as to participation on a trade shall be resolved by a majority vote of those persons present in the crowd during the relevant time or, if not so settled, then by a floor official.

Fine Schedule

F-12 (a)-(d)
1st Occurrence: $100.00
2nd Occurrence: $250.00
3rd Occurrence: $500.00
4th Occurrence: Sanction is discretionary with Business Conduct Committee

[FR Doc. 91-15267 Filed 6-26-91; 8:45 am]
BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Pacific Stock Exchange, Incorporated

June 21, 1991.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

Societe Nationale Elf Aquitaine
American Depositary Receipts (File No. 7-7006)
Farah, Inc.
Common Stock, $4.00 Par Value (File No. 7-7007)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before July 15, 1991, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 91-15346 Filed 6-26-91; 8:45 am]
BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Advisory Commission on Conferences in Ocean Shipping; Open Meeting

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Notice of open meeting of the Advisory Commission on Conferences in Ocean Shipping.

SUMMARY: The commission will be holding its third field hearing in Charleston, SC on July 12, 1991; the hearing will be open to the public. In the morning, the Commission plans to focus on issues related to conference tariff and service contract practices and to conference relations with shippers and intermediaries. In the afternoon, the Commission plans to hear testimony on all issues relating to the shipping Act of 1984 and conferences in the ocean shipping industry.

DATES: Public hearing: Friday, July 12, 1991, 9:30 a.m. to 5 p.m., Edt. Deadline for requests to speak at the public hearing: Friday, July 5, 1991.

ADDRESSES: The address for the public hearing is College of Charleston, Conference Center (Sears Building), room 226, 160 Calhoun Street (between King Street and St. Phillips Street), Charleston, SC 29426.

FOR FURTHER INFORMATION CONTACT: Ruth Dicker, Counsel, or James Reitzes, Economist, Advisory Commission on Conferences in Ocean Shipping, Department of Transportation, 400 Seventh Street, SW., room 5102, Washington, DC 20590; telephone (202) 366-9781; FAX (202) 366-7870.

SUPPLEMENTARY INFORMATION: The Commission was created by the Shipping Act of 1984 to conduct an independent and comprehensive study of conferences in ocean shipping, particularly whether the Nation would be best served by prohibiting conferences, or by closed or open conferences. The Commission is to provide its report, including recommendations, to the President and the Congress by April 10, 1992. Commission began formal operations on April 10, 1991, at a day-long open meeting in Washington, DC, at which the Commission heard reports from Federal agencies on the impact of the 1984 Act and discussed issues to be studied by the Commission.

As part of its study, the Commission will be holding a series of public hearings around the United States. Its first hearing was held June 3, 1991 in New Orleans, LA. Its second hearing was held on June 21, 1991, in San Francisco, CA. Other places selected for hearings are Portland, OR (August 9, 1991); and New York, NY (September 13, 1991). At each hearing, a part of the day will be dedicated to issues generally raised by the 1984 Act, and part of each

hearing will focus on a specific predesignated issue.

The Commission will be holding its third field hearing on July 12, 1991 in Charleston, SC, at the College of Charleston, Conference Center (Sears Building), room 226, 160 Calhoun Street. Attendance is open to the public but limited to space available. The morning session will be devoted to testimony on issues related to conference tariff and service contract practices and to conferences' relations with shippers and intermediaries. The afternoon session will be open to receive testimony on any aspect of the Shipping Act of 1984.

Interested members of the public are invited to address the Commission at the July 12, 1991 hearing. In order to be assured of an opportunity to do so, each person wishing to speak should contact Ruth Dicker or James Reitzes at the address set out above by July 5, 1991. Each such person is also required to provide by July 5, 1991 a brief summary of the matters he/she expects to address at the Commission hearing. Should such person wish to submit a copy of his/her complete statement to be delivered at the Commission hearing, he/she should make every effort to deliver 30 copies of that complete statement to the Advisory Commission staff prior to the hearing date. Persons appearing before the Commission are encouraged to support all opinions with factual information and evidence. To the extent that time permits and that it does not disrupt the orderly process of the meeting and will not be unfair to any person, persons who do not make prior written requests to speak will be given opportunity to do so as part of the afternoon session.

Persons who wish to provide written comments for the Commission's consideration may do so at any time by forwarding them to the address set out above.

Issued in Washington, DC, on June 25, 1991.

Florizelle B. Liser,

Executive Director.

[FR Doc. 91-15445 Filed 6-26-91; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

[Docket No.26588]

Environmental Impact Statement; Effects of Changes of Aircraft Flight Patterns Over State of New Jersey

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Availability of Post-Scoping Document And Invitation to Comment.

SUMMARY: The FAA announces the availability for public comment of the post-scoping document for the Environmental Impact Statement (EIS) required under section 9119 of the Aviation Safety and Capacity Expansion Act of 1990, Public Law 101-508. That statute directs the FAA to prepare an EIS pursuant to the National Environmental Policy Act (NEPA) on the effects of changes in aircraft flight patterns over the State of New Jersey caused by implementation of the Expanded East Coast Plan (EECP). The post-scoping document identifies the range of alternatives, the environmental issues and concerns, and the potentially significant issues to be addressed in the EIS.

The FAA is taking the unusual and unprecedented step of circulating this document for public comment while the Draft EIS is being prepared, although circulation is not required under NEPA, because of the unique geographic scope of this EIS the entire State of New Jersey. Since this is a statewide EIS, and it was not feasible to hold scoping meetings in every city and town throughout the entire State, there are potentially many individuals who were unable to attend the 5 public scoping meetings or to submit written comments by the deadline of April 26, 1991. Three scoping meetings were held in south, central, and northern N.J. to cover a cross-section of the State. Because of the high degree of public interest in the EIS, the FAA held 2 additional meetings in northern N.J. Circulation of the post-scoping document will afford individuals unable to attend those meetings or to submit written comments another opportunity to be heard. Since the FAA has completed the scoping process, comments received on the post-scoping document will be addressed in preparing the Draft EIS.

FOR FURTHER INFORMATION CONTACT: Any person may obtain a copy of the post-scoping document by submitting a request to the Federal Administration, Office of Public Affairs, attention: Public Inquiry Center, APA-230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling FAA's toll-free Consumer Hotline: 1 800-FAA-SURE between 8 a.m. and 4 p.m. eastern time, Monday through Friday, excluding Federal holidays. The document is also available for review at the following public libraries:

Teaneck Public Library, 840 Teaneck Road, Teaneck, NJ 07666, attention: Lucille Bertram.

Newark Public Library, 5 Washington Street, P.O. Box 630, Newark, NJ 01701 0630, attention: George Hawley.

Parsippany-Troy Hills Free Public Library, P.O. Box 5303, Parsippany, NJ 07054, attention: Dorothy Wanamaker.

Piscataway Township Free Public Library, John F. Kennedy Memorial Library, 500 Hoes Lane, Piscataway, NY 08854, attention: Mary Piekarski.

Cherry Hill Free Public Library, 1100 Kings Highway North, Cherry Hill, NJ 08034, attention: Susan Lyons.

Jersey City Public Library, 472 Jersey Avenue, Jersey City, NJ 07302-3499, attention: Director's Office.

Staten Island, New York Public Library—St. George Library Center, 5 Central Place, Staten Island, NY 10301, attention: Mr. Lee.

Camden Free Public Library, 616 Broadway, Camden, NJ 08103, attention: Theresa Gorman.

Vineland Free Public Library, 1058 E. Landis Avenue, Vineland, NJ 08360, attention: Anthony Agnesino.

Middletown Township Public Library, 55 New Monmouth Road, Middletown, NJ 07748, attention: Barbara Steinberg.

Free Public Library of the City of Trenton, 120 Academy Street, Trenton, NJ 08607-2448, attention: Nan Wright.

Ridgewood Public Library, 125 North Maple Avenue, Ridgewood, NJ 07450-3288, attention: Robert D. Ross.

Free Public Library of Woodbridge, George Frederick Plaza, Woodbridge, NJ 07095, attention: Reference Desk.

Elizabeth Public Library, 11 S. Broad St. Elizabeth, NJ 07201, attention: Carles Bowll.

Paterson Free Public Library, Danforth Memorial Library, 250 Broadway, Paterson, NJ 07501, attention: Steven Welch.

Cranford Public Library, 224 Walnut Avenue, Cranford, NJ 07016, attention. John Malar.

Rochelle Park Public Library, 405 Rochelle Avenue, Rochelle Park, NJ 07662, attention: Mary Boss.

Runnemede Public Library, Broadway & Black Horse Pike, P.O. Box 119, Runnemede, NJ 08078, attention: Joani. Strater.

Tinton Falls Public Library, 664 Tinton Avenue, Tinton Falls, NJ 07724, attention: Eleanor Szabo.

New Jersey State Library, Dept. of Education, 185 W. State Street, Trenton, New Jersey 08625-0520, attention: Janet Tuerff.

Joint Free Public Library of Morristown & Morris Township, 1 Miller Road, Morristown, NJ 07960.

SUPPLEMENTARY INFORMATION:

Background

On November 5, 1990, Congress passed the Aviation Safety and

Capacity Expansion Act of 1990, Public Law 101–508. In this statute, Congress directed the FAA to "issue an environmental impact statement pursuant to the National Environmental Policy Act of 1969 on the effects of changes in aircraft flight patterns over the State of New Jersey caused by implementation of the Expanded East Coast Plan." To facilitate preparation of the EIS, the FAA entered into a contract with the Volpe National Transportation Systems Center (TSC) of the Research and Special Projects Administration of the U.S. Department of Transportation. On February 21, 1991, the FAA published notice in the **Federal Register** of its intention to prepare the EIS and to conduct three public meetings in March 1991, as part of the scoping process. 56 FR 7292. The dates and locations of those meetings were advertised in local newspapers and published in the **Federal Register** on February 26, 1991. 56 FR 8042. The meetings were held in Tinton Falls, Runnemede, and Cranford, N.J. on March 11–12, 20–21, and 26–27, respectively, to cover a cross-section of the entire State.

Because of the high degree of public interest in the EIS, the FAA decided to hold two additional public scoping meetings on April 17 and 18 in Rochelle Park and Parsippany, N.J., respectively. The FAA again advertised the dates, locations, and times of the meetings in local newspapers and published notice in the **Federal Register**, 56 FR 15662. A total of approximately 260 persons testified at, and approximately 1,000 persons attended, these meetings.

The FAA has completed the scoping process. By July 1, 1991, the FAA expects to select a contractor who will assist the FAA in preparing the Draft and Final EIS. The comments received in response to this Notice will be addressed in preparing the Draft EIS. The FAA expects to file the Draft EIS in October 1991. Once the FAA issues the Draft EIS, there will be an additional 45-day period for public comment, during which public hearings will be held, on the Draft EIS.

Written comments on the post-scoping document should be received at the following address, in triplicate, by Headquarters Federal Aviation Administration, Office of the Chief Counsel, attn: Rules Docket (AGC–10), Docket No. 26588, 800 Independence Avenue, SW., Washington, DC 20591. Comments may be delivered or inspected at room 915G in FAA headquarters between 8:30 a.m. and 5 p.m., Monday through Friday, excluding Federal holidays.

Summary of the Post-Scoping Paper

The following is a summary of key portions of the post-scoping document. It is not intended to duplicate or cover every aspect of that document. Substantive comments submitted to the FAA should address the primary document, not this summary.

1. Description of the Action and Alternatives

A. Definition of the Action

The "proposed action" in this EIS is defined as continued implementation of the EECP. That definition is consistent with the statutory mandate which requires an EIS on the EECP and with the fact that this EIS is necessarily being prepared after that implementation.

B. Expanded East Coast Plan

The EECP created standard operating procedures to control air traffic flows over the Eastern United States. The EECP has been continuously evolving to improve its efficiency and alleviate noise since its first phase was implemented in 1987. The final phase of the EECP has been implemented.

To allow consistent analysis of the EECP in this EIS, the EECP must be identified at a fixed period in time. For purposes of this EIS, the term EECP is identified as standard FAA operating procedures for aircraft 3,000 feet above ground level over the State of New Jersey as of a week during the summer of 1991. In addition to routes and operational procedures, the EIS requires identification of en route traffic movements using the EECP routes and operational procedures over New Jersey. The air traffic during a typical week will be identified using automated air traffic control systems (the Automated Radar Terminal System (ARTS) and Advanced Traffic Management Systems (ATMS). Planned noise monitoring will also be conducted during that same week.

C. No-Action Alternative

CEQ regulations require an EIS to examine the no-action alternative. Typically, the no-action alternative consists of not implementing the proposed action, resulting in maintenance of the status quo. Because Congress has directed that the action to be examined in this EIS is the implementation of the EECP (i.e. the status quo), the no-action alternative here is synonymous with the "proposed action."

D. Return to the 1986 Route Procedures with Current and Future Traffic

Given the high level of public interest in the return to pre-EECP conditions, those 1986 routes and procedures will be identified. So that the impacts of the action, the conditions that would exist if the action had not been implemented, can be determined, the baseline conditions for this EIS will be defined as the 1986 route structure with 1991 traffic. By defining the baseline conditions thus, the impacts of the EECP can be analyzed as changes from the conditions that would have existed had it not been implemented. The EIS will also evaluate future impacts of the EECP by comparing the 1986 route structure with 2000 traffic with the EECP route structure and 2000 traffic.

To separate the impacts caused by the EECP from impacts caused by changes in air traffic volumes between 1986 and 1991, the 1991 traffic will be redistributed over the 1986 route network. In this manner, a database of the air traffic can be created that compensates for changes in flight volumes, destinations, etc. that occurred between 1986 and 1991.

E. Oceanic/Military Routing—24 hours per day

This alternative responds to numerous comments suggesting greater use of military/oceanic airspace. This approach would make maximum use of military/oceanic airspace by shifting air routes, as feasible, to that airspace.

F. Oceanic/Military Routing-Nighttime Only

This alternative is similar to the one above except that the routes would only be shifted during nighttime hours (10 p.m.–7 a.m.).

G. Spreading of Air Traffic

This alternative retains the EECP route structure but adds additional routes to increase the area subject to environmental impacts but to lessen the intensity and frequency of such impacts on any one area. Some commenters indicated that the routes appeared to be narrowly concentrated in northern N.J.

2. Assumptions and Limitations

A. Future Increases in Traffic Volumes

To inform the public and decision-maker as to whether the EECP or an alternative air traffic network is environmentally preferable for management of air traffic over New Jersey, the EIS will compare the baseline and current conditions projected for each alternative. Because the air traffic network will not create future air traffic volumes, the projections of future volumes will be the same under all alternatives. Thus, the impacts expected to result from the action and alternatives can be scaled by

projections of future volumes to determine future impacts. The EIS will analyze future impacts for the year 2000.

B. Geographic Scope

Because of the interstate nature of air commerce, the EECP has a much larger area of possible impact than the typical Federal project. Many commenters requested that portions of at least four states covering tens of thousands of square miles be included in this EIS. That area goes far beyond the mandate of Congress. The FAA has determined that the geographic scope of the congressional mandate will be followed and the scope of the EIS will be limited to New Jersey, including adjacent coastal waters. However, no FAA action will be taken as a result of this EIS which has potential impacts outside of New Jersey. If any air traffic changes affecting areas other than New Jersey are eventually considered as a result of this study, those changes will not be implemented until appropriate environmental review is conducted.

C. Non-Environmental Effects

To the extent that economic and human safety issues were raised during the scoping process, those issues will be addressed in the Report to Congress required under section 9119(c) of the Aviation Safety and Capacity Act of 1990. Section 9119(c) requires the FAA to submit a report indicating what action, if any, the FAA decides to take with respect to the EECP operating procedures. The effects on air safety of EECP operating procedures over New Jersey will also be addressed in a separate Report required under Section 9119(b) of the Aviation Safety and Capacity Act of 1990.

3. Environmental Factors

A. Noise

1. Description of the Factor. A number of scoping comments cited noise impacts as a severe adverse effect of the EECP. Many comments cited noise caused by the EECP as significantly lowering the quality of life in many communities in New Jersey. They commented on the continuous nature of the noise, the heightened annoyance factor of nighttime and early morning flights, and health effects caused by noise-induced stress.

2. Issues and Concerns. The most frequent comment about the EECP concerned the change in the noise environment. Many commenters stated that prior to the implementation of the EECP their communities were quiet ano offered a rural or sem[i]-rural lifestyle. After implementation, they indicated that their lifestyle was altered and their lifestyle was adversely affected. To many residents, the most annoying factor was the constant nature of the noise. It was stated that the noise interrupted conversation, prevented use of backyards and patios, and rattled windows and scared children. It was also stated that nighttime noise awoke residents from sleep or prevented sleep. Commenters also stated that other adverse effects included noise-induced stress and health effects, lowering of property values, and interference with education.

3. Approach and Methodology. The FAA believes that use of the DNL methodology for analyzing aircraft noise is appropriate. The application of the DNL methodology to aircraft flights in the en route airspace above 3,000 feet above ground level over an area as large as the State of New Jersey is without precedent. The FAA will therefore develop an algorithm that uses the ARTS and ATMS data on actual aircraft flights as input and calculates the resulting DNL noise level. The FAA believes that this will be a highly effective analytical technique because an actual data base on flights will be available for the period selected as representative of the EECP and that database will be direct input into the computer model. The resulting output will be calculations of DNL for a grid of points within New Jersey. This analysis will be done for each alternative studied in the EIS. The final result will be both a DNL contour map and grid of locations for the baseline condition and each alternative.

To respond to comments about individual loud overflights, the computer model for analyzing ground-level noise will identify the loudest single events. Using the same grid as for the DNL analysis, the model will report the maximum noise level and for a selected range of single event noise levels, the number of aircraft flyovers by day and night.

Field noise monitoring will also be used, where appropriate. To maximum the usefulness of the monitoring data, the time period for monitoring will coincide with the period of ARTS and EARTS data to be used in conducting the EIS analysis. The EIS will also address the appropriateness of methodologies other than DNL and alternative metrics for assessing noise by examining the technical adequacy of those alternatives.

To quantify the noise impacts of the action and alternatives, the population exposure levels will be determined. The quantities for each alternative will be described in terms of decreases and increases in DNL when compared to the baseline. The affected population will also be classified by type of residential community so as to allow appropriate consideration of the ambient noise environment in determining noise impact.

4. Environmental Consequences. This section will discuss direct and indirect effects of noise in accordance with paragraph 66 of FAA Order I050.lD. The significant levels defined in in Attachment 2—Environmental Analysis Procedures, Paragraph l of FAA Order 1050.lD will be used.

5. Possible Mitigation Measures. The alternatives in the EIS cover a number of mitigation measures for noise effects of the EECP. In addition, the EIS will analyze relocation of air routes to higher altitudes and use of special routes and procedures for specific time periods only.

B. Air Quality

1. Description of Factor. Next to noise, air quality was the most frequently cited impact of the EECP. Participants in the scoping process commented on the amount of air pollutants emitted by jet aircraft and possible health effects from exposure to elevated levels of air pollution. Some residents of New Jersey stated that they could smell the jet exhaust from overhead aircraft and that particulates from jet engines covered their houses and property.

2. Issues and Concerns. The main concern in this area was the health effects of exposure to air pollutants, including fuel dumped from aircraft. A secondary concern was the effects of air pollutants on wildlife, including migrating birds.

3. Approach and Methodology. As an initial step the FAA will consult with both the EPA and the New Jersey Department of Environmental Protection to obtain their concerns and data on air quality. To distinguish between aircraft emissions in general and those caused by the EECP, the cumulative number of miles flown by aircraft over New Jersey under the EECP will be compared with those flown under the I986 routes with 1991 traffic. If the EECP caused an increase in aircraft mileage, then the increase in air emissions can be calculated using date on aircraft emissions developed by the EPA or the Air Transport Association. The potential impact of an effect on emissions due to a change in altitudes due to the EECP will also be analyzed.

If the initial analysis reveals an increase in criteria pollutants due to the implementation of the EECP, the next step will be to quantify that increase

and to determine the potential for mixing of aircraft pollutants with air below 3,000 feet. This will require meteorological data for the air basins of New Jersey.

The next step will be to evaluate the incremental contribution of aircraft emissions to maintenance (in areas designated for prevention of significant deterioration) or exceedances of the National Ambient Air Quality Standards (NAAQS) for the baseline condition and each alternative.

A second concern is the effect of nitrogen oxide aircraft emissions on the ozone layer of the upper atmosphere. Because there are no standards for high altitude emissions, the EIS will quantify the increased emissions and summarize available scientific data on ozone-depletion effects.

It is likely that the available scientific data will be inadequate to analyze mixing of high-altitude emissions with the ground level atmosphere and the effect of aircraft NOx emissions on ozone depletion. Therefore, those analyses will be done in accordance § 1502.22 of the CEQ regulations. Because it is unclear why the EECP would afffect the amount of fuel dumping by aircraft over New Jersey, the EIS will describe fuel dumping, the situations in which it occurs, and its expected frequency. Available FAA and Air Force data will then be used to determine the level of impact.

4. Environmental Consequences. The threshhold for significant air quality impacts is substantial contribution to exceedance of the NAAQS. The EIS will inventory all air emissions caused by the action and alternatives and determine whether the increased emissions caused by the EECP that can reasonably be expected to mix with the air below 3,000 feet would threaten the NAAQS based on the State Implementation Plan.

5. Mitigation Measures. Effective measures may be identified as the EIS analysis is completed and problems are identified.

C. Water Quality

1. Description of Factor. Several commenters stated that particulates and fuel from aircraft adversely affected lakes and swimming pools.

2. Issues and Concerns. Scoping comments suggested that the impacts on water quality were more of an aesthetic than a health concern. No specific adverse health comments were described.

3. Approach and Methodology. This analysis will follow from the air quality analysis. Based on the size distribution of particulates emitted from jet engines and published data on settling rates of particulate matter, the FAA will determine the likelihood that particulates will settle to the ground.

The potential for water quality impacts due to fuel dumping will also be estimated using Air Force data regarding the likelihood of dumped fuel reaching the ground and data concerning the frequency of fuel dumping.

4. Environmental Consequences. The thresholds for significance, EPA's ambient water quality criteria, are unlikely to be exceeded.

5. Possible Mitigation Measures. None anticipated.

D. Energy Consumption

1. Description of Factor. FAA Order 1050.1D requires an EIS to examine "the energy requirements and conservation potential of various alternatives and mitigation measures."

2. Approach and Methodology. This analysis will be similar to that for air quality. The increase or decrease in energy use by aircraft will be quantified based on additional aircraft mileage and inefficiencies caused by the EECP or alternatives. The absolute change in energy consumption will be compared with the total energy consumption by commercial aircraft flying over New Jersey.

3. Possible Mitigation Measures. None anticipated.

E. Other Issues

1. Biological Resources/Threatened and Endangered Species. The U. S. Fish and Wildlife Service submitted a letter with comments identifying 5 threatened or endangered species and 5 wildlife refuges that it operates in New Jersey. The FAA will consider the likelihood of collisions of aircraft with members the 5 species. The EIS will consider the need to analyze the noise impacts on nesting birds at the wildlife refuges using the DNL contour maps for the EECP and alternatives.

2. Cultural Resources. The FAA will consult the New Jersey State Historic Preservation Officer (SHPO) to obtain an opinion on the potential for noise and vibration to significantly affect historic properties. Any site identified by the SHPO for analysis in the EIS will be considered individually in the EIS. Any determination of adverse effect will be resolved through compliance with the procedures set forth in Section 106 of the National Historic Preservation Act or other appropriate laws.

1. Land Use/Coastal Zone. The compatibility of land use categories with aircraft noise levels calculated for the EECP and alternatives will be analyzed. The EECP and, alternatives will be reviewed for consistency with N.J.'s Federally approved Coastal Zone Management Plan.

4. Section 4(f). The EIS will consider the need to analyze noise impacts on publicly owned parks, recreation areas, and wildlife refuges and sites of national, state, or local significance under Section 4(f) of the Department of Transportation Act.

5. Visual Impacts. The aesthetics of airplanes flying over residential areas and land uses where an aesthetically pleasing vista is important will be described. The effects of aircraft at various elevations on the overall vista will be analyzed.

Issued in Washington, DC on June 21, 1991.

William H. Pollard,

Associate Administrator for Air Traffic.

[FR Doc. 91-15253 Filed 6-26-91; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Privacy Act of 1974; Computer Matching Programs

AGENCY: Internal Revenue Service; Treasury Department.

ACTION: Notice.

SUMMARY: Pursuant to the Computer Matching and Privacy Protection Act of 1988, Public Law 100-508, October 18, 1988, and the Office of Management and Budget (OMB) Guidelines on the Conduct of Matching Programs, notice is hereby given of the conduct of computer matches by the Internal Revenue Service (IRS) on behalf of the Department of Veterans Affairs (VA). In accordance with section 6103(l)(7) of the Internal Revenue Code of 1986, as amended by the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101-508), November 7, 1990, the IRS will provide VA with tax information from IRS records to assist them in administering the programs and activities described hereafter. The purpose of the matching program is to substantially prevent or reduce fraud and abuse in certain VA programs and facilitate the settlement of government claims while protecting the privacy

interest of the subjects of the match. The records disclosed consist of return information for the current processing year ending June 30, 1991.

EFFECTIVE DATE: July 29, 1991.

ADDRESS: Inquiries may be mailed to Director, Office of Disclosure, Internal Revenue Service, P.O. Box 388, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Earl Klema, Chief, Disclosure Operations Section, Internal Revenue Service, (202) 566–3908.

SUPPLEMENTARY INFORMATION: The nature, purposes, and authority for this IRS computer matching activity are as follows:

Matches conducted pursuant to IRC 6103(l)(7)(D)(viii). Under subsection 6103(l)(7)(B) of the Internal Revenue Code, the Service is required, upon written request, to disclose current information from returns with respect to unearned income to any Federal, State, or local agency administering certain federally assisted needs-based programs. Subsection 6103(l)(7)(D) delineates the programs to which this rule applies. Section 8051 of the Omnibus Budget Reconciliation Act of 1990, amends subsection 6103(l)(7)(D) (by adding subparagraph (viii)) so as to require the IRS to disclose to VA unearned income information for purposes of determining eligibility for VA needs-based pension and parents' dependency and indemnity compensation and VA health-care services.

Return information from returns with respect to unearned income will be disclosed by the Service only for the purpose of, and to the extent necessary in, determining eligibility for, or the correct amount of, benefits under the aforementioned programs.

The return information will be extracted on a monthly basis from the Internal Revenue Service Wage and Information Returns Processing File (Treas./IRS System 22.061 (IRP)) for the latest processing year. This file contains information returns filed by payers of income such as interest and dividends reported on Forms 1099–INT and 1099–DIV. VA records involved in the match are taken from VA Compensation, Pension, Education and Rehabilitation Records (VA 58 21/22).

Approval of the IRS computer matching programs conducted pursuant to IRC 6103(l)(7) was granted by the Department of the Treasury Data Integrity Board on June 6, 1990.

Fred T. Goldberg,

Commissioner of Internal Revenue.

Approved:

David M. Nummy,

Acting Assistant Secretary of the Treasury (Management).

[FR Doc. 91–15123 Filed 6–26–91; 8:45 am]

BILLING CODE 4830–01–M

Office of Thrift Supervision

Merabank Federal Savings Bank; Appointment of Conservator (Revised)

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) (B) and (H) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for New MeraBank Texas, FSB, El Paso, Texas, on May 31, 1991.

By the Office of Thrift Supervision.

Dated: June 17, 1991.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91–15287 Filed 6–26–91; 8:45 am]

BILLING CODE 6720–01–M

Sunshine Act Meetings

Federal Register,
Vol. 56, No. 124
Thursday, June 27, 1991

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

DEPARTMENT OF AGRICULTURE

COMMODITY CREDIT CORPORATION

TIME AND DATE: 2:00 p.m., July 2, 1991.

PLACE: Room 104–A Administration Building, U.S. Department of Agriculture, Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Minutes of Open and Closed Meeting of February 13, 1991.
2. Memorandum re: Update of Commodity Credit Corporation (CCC)-Owned Inventory.
3. Docket GCZ–327 re: Research and Development Programs for 1991 and Subsequent Years.
4. Memorandum re: CCC Stocks Available for Increased Availability of Nonfat Dry Milk for Donation Overseas Under Section 416(b) of the Agricultural Act of 1949, as amended, During Fiscal Year 1991.
5. Memorandum re: Use of Food Security Wheat Reserve Stocks During Fiscal Year 1991.
6. Resolution re: CZ–266, Resolution No. 28, Amendment 2, Ratification of Commodities Available for Public Law 480 During Fiscal Year 1991.
7. Docket CZ–200, Revision 5 re: Disposal of Commodity Credit Corporation Commodities and Materials.
8. Resolution re: Ratifications of Secretary's Authorization of the Market Promotion Program for Fiscal Year 1991.
9. Docket GCX–326 re: Market Promotion Program for Fiscal Year 1992 and Subsequent Years.

CONTACT PERSON FOR MORE INFORMATION: James V. Hansen, Secretary, Commodity Credit Corporation, Room 3603 South Building, U.S. Department of Agriculture, Post Office Box 2415, Washington, D.C. 20013; telephone (202) 475–5490.

Dated: June 24, 1991.

James V. Hansen,

Secretary, Commodity Credit Corporation.

[FR Doc. 91–15451 Filed 6–25–91; 2:15 am]

BILLING CODE 3410–05–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Changes in the Subject Matter of a Previously Announced Open Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the following matters are expected to be considered at the open meeting of the Board of Directors of the Federal Deposit Insurance Corporation scheduled to be held at 2:00 p.m. on Tuesday, June 25, 1991, in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington D.C.:

Summary Agenda

No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Reports of actions approved by the standing committees of the Corporation and by officers of the Corporation pursuant to authority delegated by the Board of Directors.

Discussion Agenda

Memorandum and resolution re: Final amendments to Part 312 of the Corporation's rules and regulations, entitled "Assessment of Fees Upon Entrance to or Exit from the Bank Insuarnce Fund or the Savings Association Insurance Fund," which partially revise the method of computing entrance fees that must be paid by insured depository institutions participating in conversion transactions (transfers between the deposit insurance funds).

Memorandum and resolution re: FDIC appointment of FDIC as Receiver of Insured State Depository Institutions.

All previous announcements of the subject matters to be considered at that meeting are rescinded.

Dated: June 25, 1991.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 91–15419 Filed 6–25–91; 10:38 am]

BILLING CODE 6714–0–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Changes in the Subject Matter of a Previously Announced Open Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the following matters are expected to be considered at the open meeting of the Board of Directors of the Federal Deposit Insurance Corporation scheduled to be held at 2:00 p.m. on Tuesday, June 25, 1991, in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington D.C.:

Summary Agenda

No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Reports of actions approved by the standing committees of the Corporation and by officers of the Corporation pursuant to authority delegated by the Board of Directors.

Discussion Agenda

Memorandum and resolution: Final amendments to Part 312 of the Corporation's rules and regulations, entitled "Assessment of Fees Upon Entrance to or Exit from the Bank Insurance Fund or the Savings Association Insurance Fund," which partially revise the method of computing entrance fees that must be paid by insured depository institutions participating in conversion transactions (transfers between the deposit insurance funds).

Memorandum re: Policy Statement on Collateralized Letters of Credit and Collateralized Put Obligations.

All previous announcements of the subject matters to be considered at that meeting are rescinded.

Dated: June 24, 1991.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 91–15421 Filed 6–25–91; 10:39 am]

BILLING CODE 6714–0–M

FEDERAL HOUSING FINANCE BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 56 FR 26,851, June 11, 1991.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9:00 a.m., Wednesday, June 19, 1991.

STATUS: Closed.

CHANGES IN THE MEETING: Addition of the following closed items to the meeting:

FHLB Indemnification Agreements.

CRA LEGISLATIVE ACTIVITY.

CONTACT PERSON FOR MORE INFORMATION: Elaine Baker, Executive Secretary to the Board; (202) 408–2837.

J. Stephen Britt,

Executive Director.

[FR Doc. 91–15529 Filed 6–25–91; 10:40 am]

BILLING CODE 6725–01–M

Corrections

Federal Register

Vol. 56, No. 124

Thursday, June 27, 1991

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 28

[CN-91-006]

Revisions of User Fees for Cotton Classification, Testing and Standards

Correction

In rule document 91-13047 beginning on page 24671 in the issue of Friday, May 31, 1991, make the following correction:

On page 24672, in the first column, in the fourth complete paragraph, in the fourth line, "not" should read "now".

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

Correction

In notice document 91-14749 beginning on page 28371 in the issue of Thursday, June 20, 1991, make the following corrections:

On page 28372:

a. In the second column, in the third paragraph, in the first line, the *Docket Number* should read "91-083".

b. In the third column, in the first paragraph, in the first line, the *Docket Number* should read "91-084".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 57

RIN 0905-AD07

Health Professions Student Loan Program

Correction

In the issue of Tuesday, June 4, 1991, on page 25446, in the second column, in the correction of rule document 91-9751, the CFR title should have appeared as set forth above.

BILLING CODE 1505-01-D

federal register

Thursday
June 27, 1991

Part II

Office of Management and Budget

Proposed Revisions to Circular A-21; Notice

OFFICE OF MANAGEMENT AND BUDGET

Proposed Revisions to Circular A-21

AGENCY: Office of Management and Budget.

ACTION: Proposed revisions to Circular A-21.

SUMMARY: This notice offers interested parties an opportunity to comment on proposed revisions to Office of Management and Budget (OMB) Circular A-21, "Cost Principles for Educational Institutions."

This revision implements the previously stated intent of OMB to revise Circular A-21. On April 22, 1991, Director Richard Darman announced that OMB would move to impose additional new controls on Federal reimbursement to universities. On May 15, 1991, OMB published for comment at 56 FR 22618 the first proposal to amend Circular A-21. This notice contains the second proposed revision to Circular A-21.

In announcing this second proposal, Mr. Darman said: "America's university research enterprise is an indispensable contributor to U.S. competitiveness and to American leadership in science, engineering and technology. The Administration remains committed to funding a fair share of the costs of the research enterprise. But this share must not include excessive administrative costs. Abuses in cost recovery must be stopped. At the same time, since many of these abuses would not occur if there were agreed accounting standards, we must proceed immediately to define those standards."

DATES: Interested parties are invited to comment on these proposed changes. All comments should be received July 29, 1991.

ADDRESSES: Comments should be submitted to the Office of Management and Budget, Financial Management Division, room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jack Sheehan, Financial Management Division, Office of Management and Budget (telephone: 202-395-3050).

SUPPLEMENTARY INFORMATION: The following explains the major changes proposed to Circular A-21 in this notice.

1. A new section is added to the Circular placing a cap of 26 percent of modified total direct costs as reimbursement for administrative costs. Those at or below the cap will continue to be reimbursed at their current negotiated rate. The cap will apply to sponsored agreements awarded or amended (including continuation and renewal awards) with effective dates beginning after September 30, 1991. Generally, no changes in accounting or cost allocation methods, which would shift costs from indirect to direct or from administrative costs to other indirect costs, are allowed. However, cognizant Federal agencies are authorized to permit changes where an institution's charging practices are at variance with acceptable practices followed by a substantial majority of other institutions. The adjustment of indirect cost rates, where necessary, will be made by the cognizant Federal agency based on information in its files.

2. Circular A-21 is amended to clarify existing requirements and clearly stipulate that the Federal Government will not in any way subsidize indirect costs of non-Federal research.

3. Circular A-21 is amended to provide for the establishment of a dedicated facilities fund to be used only for buildings and equipment supporting organized research.

4. A new section is added to the Circular to establish a consistent policy for adjustment of indirect cost rates based on a proposal(s) subsequently found to have contained unallowable costs.

Executive Order No. 12291

OMB has determined that the proposed revisions to Circular No. A-21 do not qualify as a "major rule" under the criteria in Executive Order No. 12291, "Federal Regulation."

The principal effect of the proposed revisions will be to require that Federal agencies ensure that Federal grant and contract funds are not used for purposes that are contrary to specific legislative prohibitions or that have been determined to be not necessary to carry out the program's objectives. The costs to implement the new revisions would be primarily accounting costs for grantees, contractors, and Federal agencies. These new costs, however, are minimal in both absolute and relative amounts, and, in many instances, the revisions should reduce compliance costs. Furthermore, much of the accounting work that the revision would require is already mandated by other sections of Circular No. A-21.

Susan Gaffney,

Acting Assistant Director, Financial Management Division.

Limitation on Administrative Costs

A new section number 6 is added to section G.

6. *Limitation on reimbursement of administrative costs.*

a. Notwithstanding the provisions of G.1.a, the administrative costs charged to sponsored agreements awarded or amended (including continuation and renewal awards) with effective dates beginning after September 30, 1991, shall be limited to 26% of modified total direct costs (as defined in section G.2) for the total of General Administration and General Expenses, Departmental Administration and Sponsored Projects Administration (including their allocable share of depreciation and/or use allowances, operation and maintenance expenses, and fringe benefit costs as provided by sections F.3.a, f.4.a.(3), and F.5.a).

b. Existing indirect cost rates that affect periods after September 30, 1991, shall be unilaterally amended by the cognizant Federal agency to reflect the cost limitation in subsection a above.

c. Institutions should not change their accounting or cost allocation methods which were in effect on May 1, 1991, if the effect is to: (i) change the charging of a particular type of cost from indirect to direct, or (ii) reclassify costs or increase allocations from the administrative pools identified in subsection a above to the other indirect cost pools or fringe benefits. Cognizant Federal agencies are authorized to permit changes where an institution's charging practices are at variance with acceptable practices followed by a substantial majority of other institutions.

Research Allocations

A new subsection C is added to section C.4, *Allocable costs.*

c. Any costs allocable to activities sponsored by industry or foreign governments may not be shifted to federally-sponsored agreements.

Section G.1.a is amended by renumbering the existing text G.1.a.(1) and G.1.a.(2) and adding the new subsection G.1.a.(3). This section will now read as follows:

G. *Determination and application of indirect cost rate or rates.*

1. Indirect cost pools.

a. (1) Subject to subsection b, the separate categories of indirect costs allocated to each major function of the institution as prescribed in Section F shall be aggregated and treated as a common pool for that function. The amount in each pool shall be divided by the distribution base described in section G.2 to arrive at a single indirect cost rate for each function.

(2) The rate for each function is used to distribute indirect costs to individual sponsored agreements of that function. Since a common pool is established for

each major function of the institution, a separate indirect cost rate would be established for each of the major functions described in section B.1 under which sponsored agreements are carried out.

(3) Each institution's indirect cost rate process must be appropriately designed to ensure that Federal sponsors do not in any way subsidize the indirect costs of other sponsors, specifically activities sponsored by industry and foreign governments. Accordingly, each allocation method used to identify and allocate the indirect cost pools, as described in sections E.2 and F.1 through F.7, must contain the full amount of the institution's modified total costs or other appropriate units of measurement used to make the computations. In addition, the final rate distribution base (as defined in section G.2) for each major function (organized research, instruction, etc., as described in section B.1) shall contain all the programs or activities which utilize the indirect costs allocated to that major function. At the time an indirect cost proposal is submitted to a Federal cognizant agency, each institution must describe the process it uses to ensure that Federal funds are not used to subsidize industry and foreign government funded programs.

Dedicated Facilities Fund

A new subsection 7 is added to section G.

7. *Depreciation and use allowance rate.* When the cognizant agency determines an indirect cost rate, the portion of that rate which is for depreciation and/or use allowances for buildings and equipment shall be identified for use in determining the portion of Federal indirect cost payments which are to be set aside in accordance with the provisions of section J.9.f.

A new subsection f is added to section J.9.

f. This section applies to the largest college and university recipients of Federal research and development funds as displayed in Attachment A.

(1) The portion of Federal indirect cost payments made for depreciation or use allowances under sponsored agreements, consistent with section G.7, shall be identified and promptly set aside in a separate fund. This fund shall be prudently invested and all earnings credited thereto. This fund shall be used only for: (a) liquidation of debts incurred to acquire assets that are used directly for research activities, or (b) payments to acquire, repair, renovate, or improve buildings or equipment directly related to research. For buildings or equipment not exclusively used for direct research activity, only appropriately proportionate amounts may be expended from the fund.

(2) Reports on fund activity and on compliance with subsection (1) above shall be submitted and certified to (as provided for in section K.2.b) as part of each indirect cost proposal to the cognizant Federal agency. Expenditures from the fund which are inconsistent with subsection (1) shall be disallowed and must be paid to the Federal Government with interest, consistent with the applicable Federal agency regulations.

Adjustment of Indirect Cost Rates

A new subsection 9 is added to section C.

9. *Adjustment of previously negotiated indirect cost rates containing unallowable costs.*

Negotiated indirect cost rates based on a proposal later found to have included costs that are unallowable as specified by law, section J of this Circular, or the terms and conditions of sponsored agreements shall be adjusted, or a refund shall be made, in accordance with the requirements of this section. These adjustments or refunds are designed to correct the proposals used to establish the rates and do not constitute a reopening of the rate negotiation. The adjustments or refunds will be made regardless of the type of rate negotiated (predetermined, final, fixed, or provisional).

a. For rates covering a future fiscal year of the institution, the unallowable costs will be removed from the indirect cost pools and the rates appropriately adjusted.

b. For rates covering a past period, the Federal share of the unallowable costs will be computed for each year involved and a cash refund (including interest chargeable in accordance with applicable regulations) will be made to the Federal Government. If cash refunds are made for past periods covered by provisional or fixed rates, appropriate adjustments will be made when the rates are finalized to avoid duplicate recovery of the unallowable costs by the Federal Government.

c. For rates covering the current period, either a rate adjustment or a refund, as described in subsections a and b, shall be required by the cognizant agency. The choice of method shall be at the discretion of the cognizant agency, based on its judgment as to which method would be most practical.

d. The amount of unallowable costs included in each year's rate will be assumed to be the same as the amount in the base year proposal used to establish the rate.

Attachment A—List of Colleges and Universities Subject to Section J.9.F of Circular A–21

1. Johns Hopkins University
2. Stanford University
3. Massachusetts Institute of Technology
4. University of Washington
5. University of California-Los Angeles
6. University of Michigan
7. University of California-San Diego
8. University of California-San Francisco
9. University of Wisconsin-Madison
10. Columbia University
11. Yale University
12. Harvard University
13. Cornell University
14. University of Pennsylvania
15. University of California-Berkeley
16. University of Minnesota
17. Pennsylvania State University
18. University of Southern California
19. Duke University
20. Washington University
21. University of Colorado
22. University of Illinois-Urbana
23. University of Rochester
24. University of North Carolina-Chapel Hill
25. University of Pittsburgh
26. University of Chicago
27. University of Texas-Austin
28. University of Arizona
29. New York University
30. University of Iowa
31. Ohio State University
32. University of Alabama-Birmingham
33. Case Western Reserve
34. Baylor College of Medicine
35. California Institute of Technology
36. Yeshiva University
37. University of Massachusetts
38. Vanderbilt University
39. Purdue University
40. University of Utah
41. Georgia Institute of Technology
42. University of Maryland-College Park
43. University of Miami
44. University of California-Davis
45. Boston University
46. University of Florida
47. Carnegie-Mellon University
48. Northwestern University
49. Indiana University
50. Michigan State University
51. University of Virginia
52. University of Texas-SW Medical Center Dallas
53. University of California-Irvine
54. Princeton University
55. Tulane University of Louisiana
56. Emory University
57. University of Georgia
58. Texas A & M University-campuses
59. New Mexico State University
60. North Carolina State University-Raleigh
61. University of Illinois-Chicago
62. Utah State University
63. Virginia Commonwealth University
64. Oregon State University
65. SUNY-Stony Brook
66. University of Cincinnati
67. CUNY-Mount Sinai School of Medicine
68. University of Connecticut

69. Louisiana State University
70. Tufts University
71. University of California-Santa Barbara
72. University of Hawaii-Manoa
73. Rutgers State University of New Jersey
74. Colorado State University
75. Rockefeller University
76. University of Maryland-Baltimore
77. Virginia Polytechnic Institute & State University
78. SUNY-Buffalo
79. Brown University
80. University of Medicine & Dentistry of New Jersey
81. University of Texas-Health Science Center San Antonio
82. University of Vermont
83. University of Texas-Health Science Center Houston
84. Florida State University
85. University of Texas-Md Anderson Cancer Center
86. University of Kentucky
87. Wake Forest University
88. Wayne State University
89. Iowa State University of Science & Technology
90. University of New Mexico
91. Georgetown University
92. Dartmouth College
93. University of Kansas
94. Oregon Health Sciences University
95. University of Texas-Medical Branch-Galveston
96. University of Missouri-Columbia
97. Temple University
98. George Washington University
99. University of Dayton

[FR Doc. 91-15351 Filed 6-26-91; 8:45 am]

BILLING CODE 3110-01-M

federal register

Thursday
June 27, 1991

Part III

Department of Commerce

International Trade Administration

Consortia of American Businesses in Eastern Europe Grant Program; Notice

DEPARTMENT OF COMMERCE

International Trade Administration

[Docket No. 910637-1137]

Consortia of American Businesses in Eastern Europe

AGENCY: International Trade Administration, Commerce.
ACTION: Notice of a new Business Consortia Grant Program to assist U.S. firms establishing a commercial presence in Eastern Europe.

SUMMARY: A pilot program has been designed to assist U.S. firms in establishing a commercial presence in Eastern Europe through the formation of Consortia of American Businesses in Eastern Europe (CABEE). CABEEs are private and public non-profit organizations which will be formed to promote U.S. goods and services in Eastern Europe. The participants in these consortia will be for-profit U.S. firms interested in trade with Eastern Europe. CABEEs will establish offices and staff in Eastern Europe to provide a broad range of services for their member firms, including market research, sales promotion, and other trade facilitation services. Grant funds will be awarded as seed money to pay the start-up costs of establishing and operating CABEE offices in Eastern Europe. CABEEs can be organized along a single industry line or represent more than one business sector. There is no limitation on the number of for-profit firms that a consortium may represent.

SUPPLEMENTARY INFORMATION:

Program Objectives

CABEEs are intended to strengthen the U.S. business presence in Eastern Europe. They will provide direct trade facilitation support for their member firms, stimulating increased U.S. exports, joint ventures, and U.S. direct investment in Eastern Europe. CABEEs will promote two-way trade and will be expected to support development of counterpart host country trade associations and/or other organizations that can respond to the business opportunities represented through the consortia.

Funding Availability

Pursuant to the provision headed section (a)(6) under the heading Assistance for Eastern Europe of title II of the Foreign Operations, Export Financing and Related Programs Appropriation Act, 1991, Public Law 101–513 and section 632(a) of the Foreign Assistance Act of 1961, as amended, funding for the program will come from the Agency for International Development. Commerce will administer the program on a pilot basis pursuant to the authority contained insection 635(b) of the Foreign Assistance Act of 1961, as amended. The total amount of grant funds available for the pilot program is $2.5 million.

Funding Instrument and Project Duration

The Federal grant contribution will not exceed 50 percent of proposed eligible project costs with a maximum grant amount of $500,000 per consortium. Applicants are expected to provide the remaining share, preferably in cash. Federal funding will be a one-time injection with a grant period not to exceed three years. Assistance will be available for the period of time required to complete the scope of work but not to exceed three years from the date of the grant offer.

Request for Applications

Competitive Application kits (Application Kits) #180–0028–1 will be available from Commerce starting June 28, 1991.

To obtain a copy of the Application Kit #180–0028–1, please send a written request with two self-addressed mailing labels to Mr. George Muller, Director, Office of Export Trading Company Affairs, room 1800 HCHB, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230. Only written requests will be honored; telephone, fax, or walk-in requests will not be accepted. Only one copy of the Application Kit will be provided to each organization requesting it, but it may be reproduced by the requester. Applications (Standard Form 424 (Rev. 4–88)) are to be received at the address designated in the Application Kit no later than 3 p.m. e.d.t. August 13, 1991. Subject to the availability of funds, awards will be made prior to the end of 1991.

Eligibility

Eligible applicants for the Business Consortia Grant Program will be private and public non-profit U.S. organizations including non-profit corporations, associations and public sector entities. Within the industry or industries represented by the consortium, membership in a consortium must be available on a non-discriminatory basis. For example, membership in a trade association cannot be a requirement for membership in a consortium. Only applicants proposing to open an office in one or more of the following East European countries are eligible for this program: Poland, Hungary, Czechoslovakia, Bulgaria, Romania, and Yugoslavia. Each application will receive an independent, objective review by one or more review panels qualified to evaluate the applications submitted under the program. Applications will be evaluated on a competitive basis in accordance with the selection criteria set below.

Selection Criteria

Priority consideration will be given to those CABEE proposals which:

1. Focus on Poland, Hungary, and Czechoslovakia as the geographic target of commercial activities.
2. Involve or relate to the following industries: Environment, energy, telecommunications, agriculture and agribusiness, and housing. Marketability of the products and/or services in the applicable East European countries will be taken into account in evaluating applications.
3. Are proposed by applicants with the capacity, qualifications and staff necessary to successfully undertake the intended activities.
4. Demonstrate the capability and intent of enlisting small and mid-sized U.S. firms as CABEE members.
5. Provide a reasonable assurance that the proposed project can be continued on a self-sustained basis after expiration of the Federal grant.
6. Contain a commitment to encourage, support and assist development of indigenous counterpart organizations (e.g. trade associations) and a well reasoned explanation as to how that will be accomplished.
7. Present a realistic work plan detailing the services it will provide to the CABEE members.
8. Present a reasonable, itemized budget for the proposed activities.

Selection criteria 1–3 will be weighted equally but will be accorded a greater degree of importance than the remaining criteria. Selection criteria 4–8 will be weighted equally.

Notifications

All applicants are advised of the following:

1. Applicants that have an outstanding account receivable with the Federal Government may not be considered for funding until these debts have been paid or arrangements satisfactory to the Department are made to pay the debt.
2. 15 CFR part 28 prohibits recipients of Federal contracts, grants, and cooperative agreements from using appropriated funds for lobbying the Executive or Legislative branches of the Federal government in connection with a specific contract, grant, or cooperative

agreement. A Certification Regarding Lobbying and the SF–LLL, Disclosure of Lobbying Activities (if applicable), is required for awards exceeding $100,000.

3. Applicants are subject to Governmentwide Debarment and Suspension (Nonprocurement) requirements as stated in 15 CFR part 26. In accordance with the Drug-Free Workplace Act of 1988, each applicant must make the appropriate certification as a prior condition to receiving a grant or cooperative agreement.

4. A false statement on the application may be grounds for denial or termination of funds.

5. Awards under this program shall be subject to all Federal and Departmental regulations, policies and procedures applicable to financial assistance awards.

6. All recipients are advised of the applicability of Executive Order 12372, Intergovernmental Review of Federal Programs.

7. The Standard Form 424 (Rev. 4–88) mentioned in this Notice is subject to the requirements of the Paperwork Reduction Act and it has been approved by OMB under Control No. 0348–0006.

Dated: June 24, 1991.

George Muller,

Director, Office of Export Trading Company Affairs.

[FR Doc. 91–15301 Filed 6–26–91; 8:45 am]

BILLING CODE 3510-DR-M

federal register

Thursday
June 27, 1991

Part IV

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Part 52

Federal Acquisition Regulation; Contract Award-Sealed Bidding-Construction; Proposed Rule

Publications

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 52

[FAR Case 91-31]

Federal Acquisition Regulation; Contract Award-Sealed Bidding-Construction

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering amending the provision at FAR 52.214–19, Contract Award-Sealed Bidding-Construction, to include the language regarding unbalanced bidding now contained in the provisions at 52.214–10, Contract Award-Sealed Bidding, and 52.215–16, Contract Award. This will make the provision at 52.214–19 consistent with the provisions at 52.214–10 and 52.215–16.

DATES: Comments should be submitted to the FAR Secretariat at the address shown below on or before August 26, 1991 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW., room 4041, Washington, DC 20405. Please cite FAR Case 91–31 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Mr. Jack O'Neill at (202) 501–3856 in reference to this FAR case. For general information, contact Ms. Beverly Fayson, FAR Secretariat, room 4041, GS Building, Washington, DC 20405, (202) 501–4755. Please cite FAR Case 91–31.

SUPPLEMENTARY INFORMATION:

A. Background

A previous amendment to the FAR amended the provisions at 52.214–10 and 52.215–16 to include the concept of unbalanced bidding. At that time, however, the provision at 52.214–19 was not amended. The councils are proposing to add the unbalanced bidding concept to the provision at 52.214–19 in order to provide coverage for those instances where solicitations for construction could result in unbalanced bidding.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because the proposed change has already been implemented for other sealed bid and negotiated contracts with no impact on the small business community. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments from small entities concerning the affected FAR subpart will also be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAR case 91–31) in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping information collection requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501 *et seq.*

List of Subjects in 48 CFR Part 52

Government procurement; Contract Award-Sealed Bidding-Construction.

Dated: June 20, 1991.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, it is proposed that 48 CFR part 52 be amended as set forth below:

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1. The authority citation for 48 CFR part 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 52.214–19 is amended by removing from the provision title the date "(FEB 1986")" and inserting in its place "(DATE)"; and by adding paragraph (d) to the provision to read as follows:

52.214–19 Contract Award-Sealed Bidding-Construction.

* * * * *

(d) The Government may reject a bid as nonresponsive if the prices bid are materially unbalanced between line items or subline items. A bid is materially unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated in relation to cost for other work, and if there is a reasonable doubt that the bid will result in the lowest overall cost to the Government even though it may be the low evaluated bid, or if it is so unbalanced as to be tantamount to allowing an advance payment.

(End of provision)

[FR Doc. 91–15311 Filed 6–26–91; 8:45 am]

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federal register

Thursday
June 27, 1991

Part V

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 227

Endangered and Threatened Species; Proposed Threatened Status for Snake River Spring, Summer, and Fall Chinook Salmon; Proposed Rules

Lower Columbia River Coho Salmon; Notice

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 227

[Docket No. 910647-1147]

Endangered and Threatened Species; Proposed Threatened Status for Snake River Spring and Summer Chinook Salmon

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Proposed rule.

SUMMARY: NMFS is issuing a proposed determination that the Snake River spring and summer chinook salmon (*Oncorhynchus tshawytscha*) is a "species" under the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.* (ESA), because of compelling evidence that Snake River spring/summer chinook salmon are reproductively isolated from Snake River fall chinook salmon and because there is a high probability of substantial gene flow between the spring and summer chinook salmon forms. Further, NMFS proposes to list the Snake River spring/summer chinook salmon as threatened under the ESA. Snake River spring/summer chinook salmon have declined to low numbers of fish that are thinly spread over a large and complex river system. Hydropower development, water withdrawal and diversions, water storage, harvest, inadequate regulatory mechanisms, and artificial propagation are factors contributing to the decline and represent a continued threat to the Snake River spring/summer chinook salmon's existence. Should the proposed listing be made final, protective regulations under the ESA would be put into effect and a recovery program would be implemented.

DATES: Comments from all interested parties must be received by August 26, 1991. Public hearings are scheduled as follows:

1. July 30, 1991, 7 p.m. to 9:30 p.m., Portland, Oregon;
2. July 31, 1991, 7 p.m. to 9:30 p.m., Seattle, Washington;
3. August 1, 1991, 7 p.m. to 9:30 p.m., Richland, Washington;
4. August 7, 1991, 7 p.m. to 9:30 p.m., Boise, Idaho.

ADDRESSES: Comments on this proposed rule should be sent to the Environmental and Technical Services Division, NMFS, Northwest Region, 911 NE. 11th Avenue, suite 620, Portland, OR 97232, or provided at any one of the public hearings. The hearings will be held at the following locations:

1. 1st Floor West Side, Federal Complex, 911 NE. 11th Ave., Portland, Oregon;
2. NOAA, Western Administrative Support Center, Building 9 Auditorium, 7600 Sand Point Way, NE., Seattle, Washington;
3. Richland Federal Building Auditorium, 825 Jadwin Avenue, Richland, Washington;
4. Boise Interagency Fire Center Auditorium, 3905 Vista Ave., Boise, Idaho.

FOR FURTHER INFORMATION CONTACT: Tracey Vriens, Environmental and Technical Services Division, NMFS, Portland, Oregon, 503–230–5420 or FTS–429–5420.

SUPPLEMENTARY INFORMATION:

Background

On June 7, 1990, NMFS received petitions from Oregon Trout, with co-petitioners Oregon Natural Resources Council, Northwest Environmental Defense Center, American Rivers, and Idaho and Oregon Chapters of American Fisheries Society to list the Snake River spring chinook salmon and the Snake River summer chinook salmon under the ESA. NMFS published a notice on September 11, 1990, (55 FR 37342) announcing that the petitions presented substantial scientific information indicating that the listings may be warranted and requesting information from the public.

NMFS has reviewed all available scientific information pertaining to the status of Snake River spring/summer chinook salmon. To assist in this review, NMFS convened a Technical Committee to provide information and to review and comment on the data in the record. The Technical Committee consists of representatives from Federal and State fisheries agencies, Indian tribes, industries, professional societies, and public interest groups that have technical expertise relevant to Snake River spring/summer chinook salmon.

Status Review for Snake River Spring/Summer Chinook Salmon

The NMFS Northwest Region Biological Review Team prepared a "Status Review for Snake River Spring/Summer Chinook Salmon" (Matthews and Waples 1991) providing more detailed information, discussion and references. This status review is available upon request (see **ADDRESSES**), and is summarized below.

Ecosystem

The Snake River is the major tributary of the Columbia River, entering the Columbia 324.3 miles (522 kilometers) upstream from the Pacific Ocean. The Snake River contains five principal subbasins that currently produce spring- and/or summer-run chinook (CBFWA 1990). Three of the five subbasins, the Clearwater, Grande Ronde, and Salmon Rivers, are large, complex systems; the other, the Tucannon and Imnaha Rivers, are small systems in which the majority of salmon production is in the mainstream rivers (Matthews and Waples 1991). In addition to the five major subbasins, three small streams, Asotin, Granite, and Sheep Creeks, that enter the Snake River between Lower Granite and Hell's Canyon Dams, provide small spawning and rearing areas CBFWA 1990).

The habitat occupied by spring/summer chinook salmon in the Snake River in unique to the biological species. Snake River spring/summer chinook salmon spawn at higher elevations, typically about 5,000–7,000 feet (1,500 to 2,133 meters), than any other populations of the species. They also migrate farther from the ocean, 600 to 900 miles (965 to 1,448 km.), than most other chinook salmon populations. Long migrating populations are also found in the Fraser and Yukon Rivers, and perhaps in the Soviet Union, but these populations do not spawn at such high elevations.

Spawning habitat in the Snake River is distinctive in having large areas of open, low relief streams at high elevation. Habitat, particularly in the Salmon River, is among the most productive for the species. The Salmon River (tributary to the Snake River) alone once produced approximately 40 percent of the spring/summer chinook salmon returning to the Columbia River. The Snake River flows through terrain that is warmer and drier on an annual basis than the upper Columbia River Basin or other drainages farther north. Geologically, the land forms are older and much more eroded than most other chinook salmon habitat. Collectively, these environmental factors result in a river that is warmer and more turbid, with higher ph and alkalinity, than most other within the biological species' range.

Life History

Adult chinook salmon migrating upstream past Bonneville Dam from March-May, June-July, and August-October are categorized as spring, summer, and fall run fish, respectively. In general, the habitats utilized for spawning and early juvenile rearing are different among the three forms. Spring chinook salmon tend to use small, higher elevation streams, summer chinook salmon tend to use mid-elevation

streams, and fall chinook salmon use larger, lower elevation mainstem streams. However, in the Snake River, summer chinook salmon inhabit smaller, higher elevation tributaries more typical of spring chinook salmon habitat. (Matthews and Waples 1991). In contrast, upper Columbia River summer chinook salmon spawn in larger, lower elevation streams more characteristic of fall chinook salmon habitat. Juvenile behavior also suggests that Snake River summer chinook salmon are more closely related to Snake River spring chinook salmon than to Snake River fall chinook salmon, whereas the juvenile behavior of the upper Columbia River summer chinook salmon is more closely aligned to upper Columbia River fall chinook salmon. Snake River spring and summer chinook and upper Columbia River spring chinook salmon migrate seaward as yearling smolts (Matthews and Waples 1991 *citing* Schreck *et al.* 1986). Upper Columbia River summer and fall chinook salmon migrate seward as subyearlings. In addition, genetic analysis indicates that Snake River spring/summer chinook salmon are very similar, but, as a group, are quite distinct from Snake River fall chinook salmon (Matthews and Waples 1991).

The spawning age of Snake River spring/summer chinook salmon varies by stream and by sex, but the data indicate that most return after 2 or 3 years. the fecundity of the Snake River spring/summer chinook salmon varies; for example, in the Tucannon River, there was a mean fecundity of 3,916 and 4.095 eggs per female in 1986 and 1987, respectively (CBFWA 1990) and in the Grande Ronde River, a mean of 3,715 and 3,462 egges per female in 1983 and 1984, respectively (Howell *et al.* 1985). Egg to smolt survival also varies, and the data are limited. However, in the Tucannon River, the survival rate was 13.0 percent for the 1985 brood year and 14.2 percent for the 1987 brood year (Bugert *et al.* 1990). In the Grande Ronde River, this rate varied from 6.4 to 8 percent from 1965 through 1969 (Howell *et al.* 1985).

There are no date available for smolt to adult survival for individual streams or drainages. However, Raymond (1979) estimated a 0.4–4.4 percent smolt to adult survival rate for wild smolts arriving at Ice Harbor Dam for 1966–1975. These estimates do not take into account any smolt mortality between rearing areas and the uppermost Snake River dam (Ice Harbor Dam 1968; Lower Monumental Dam 1969; Little Goose Dam 1970–1974).

Outmigrating Snake River spring/summer chinook salmon are present at lower Granite Dam (the first major dam encountered by the outmigrants) generally from early April through June.

Consideration as a "Species" Under the ESA

To consider the Snake River spring/summer chinook salmon for listing, they must qualify as a "species" either together or separately, under the ESA. The ESA defines a "species" to include any "distinct population segment of any segment of vertebrate. . . which interbreeds when mature." NMFS published an interim policy (March 13, 1991; 56 FR 10542) on how it will apply the ESA species definition in evaluating Pacific salmon. A salmon population will be considered distinct, and hence a species under the ESA, if it represents an evolutionarily significant unit (ESU) of the biological species. The stock must satisfy two criteria to be considered an ESU: (1) It must be reproductively isolated from other conspecific population units and (2) it must represent an important component in the evolutionary legacy of the biological species. The first criterion, reproductive isolation, need not be absolute, but must be strong enough to permit evolutionarily important differences to accrue in different population units. The second criterion is met if the population contributes substantially to the ecological/genetic diversity of the species as a whole. Further guidance on application of this policy is contained in the NMFS paper "Definition of Species under the Endangered Species Act: Application to Pacific Salmon" (Waples 1991).

Spring/summer run fish have traditionally been considered separate runs based on the difference in timing of adult returns to spawning areas. In determining whether Snake River spring/summer chinook salmon should be considered together or separately as a species as defined by the ESA, it is necessary to determine whether fish with different run-time designations are reproductively isolated. Schreck *et al.* (1986) and Utter *et al.* (1989) suggest that spring-, summer-, and fall-run chinook salmon probably do not represent separate lineages in the Pacific Northwest. They found that, in general, geographic proximity was a more important factor than run-timing in predicting similarities between stocks. This suggests that run-time differences may have evolved independently following colonization of a new area (Matthews and Waples 1991). However, in spite of this general pattern, there are pronounced genetic (Schreck *et al.* 1986; Utter *et al.* 1989) and life history (Matthews and Waples 1991) differences between spring and fall chinook salmon in the Snake River.

The relationship between spring/summer run fish in the Snake River is not so clear. Even though some spring/summer populations appear to be substantially reproductively isolated, this isolation may be due to geographical separation as much as to temporal differences in spawn timing. Furthermore, reproductive isolation could be as strong (or stronger) between populations with similar run-timing from different drainages.

The key to understanding the evolutionary significance of spring and summer run-timing is the relationship between the two forms in streams where they occur together (Matthews and Waples 1991). Matthews and Waples (1991) discuss two hypotheses that could explain the presence of both forms in the same stream: (1) the two forms arose from a single colonization event by one of the forms or (2) spring and summer-run fish are two independent evolutionary units, and the reason both forms are found in the same stream is that, in these cases, two colonization events occurred. Presently, there is insufficient information to determine which of these hypotheses is true, or whether hypothesis 1 is true in some cases and hypothesis 2 is true in others.

Because of compelling evidence that Snake River fall chinook salmon are reproductively isolated from spring/summer chinook salmon and because there is a probability of substantial levels of gene flow between the spring/summer chinook salmon forms in at least some localities. NMFS is considering Snake River spring/summer chinook salmon as a unit. This decision, however, does not imply that the two forms are not both important; the presence of fish with a spectrum of run and spawn timing is crucial to the long-term health and viability of Snake River chinook salmon.

To determine whether Snake River spring/summer chinook salmon consist of one or multiple ESUs, the criteria of reproductive isolation and substantial contribution to ecological/genetic diversity of the biological species are important. The most compelling evidence of an anadromous salmonid population's reproductive isolation is the ability of individuals to return to their natal streams to reproduce. This is particularly true for upriver populations, such as Snake River spring/summer chinook salmon (Chapman *et al.* 1991). The great distances that these fish must travel (over 324 miles (522 km)) in fresh water to reach their natal streams reduces the likelihood of straying from

other major river systems outside the Snake River. All available information suggests that if an adult spring or summer chinook salmon enters the Columbia River, it will most likely spawn only in its natal stream (Matthews and Waples 1991).

Recent studies (Schreck 1986; Waples *et al.* 1990) examining the genetic relationships among Columbia River Basin chinook salmon stocks indicate that there is little, if any, genetic exchange between Snake River spring/summer-run chinook salmon and lower and mid-Columbia River spring chinook salmon and upper Columbia River summer chinook salmon (Matthews and Waples 1991).

The available information also indicates that Snake River spring/summer chinook salmon are ecologically/genetically distinct. The fact that juvenile migrational behavior is the same for spring/summer chinook salmon in the Snake River and is different for the same forms in the upper Columbia River, strongly implies ecological/genetic adaptiveness. The precision required to migrate great distances from different natal streams and tributaries and return with high fidelity and exact timing to start the next generation 1 to 3 years later speaks of biological entities that are highly adapted to their particular environments. Protein electrophoresis shows clear differences between Snake River spring/summer chinook salmon and other chinook salmon populations in the Columbia River Basin.

Snake River spring/summer chinook salmon as a group meet both criteria to be considered a "species" under the ESA; they are strongly isolated reproductively from other conspecific population units and they contribute substantially to the ecological/genetic diversity of the biological species. While more than one ESU may exist within the Snake River Basin, the data presently available are not sufficient to clearly demonstrate the existence of multiple ESUs, or to define their boundaries. Thus, NMFS is proposing that the Snake River spring/summer chinook be considered as one ESU of the biological species *O. tshawytscha* under the ESA. NMFS recognizes that there is evidence of important differences between some population segments within the Snake River Basin; therefore, NMFS emphasizes that the proposed ESU's viability is strongly dependent on the continued existence of healthy populations distributed throughout the area of the ESU. As more data become available, smaller ESUs within the Snake River ESU may be defined.

In determining the nature and extent of the ESU for Snake River spring/summer chinook salmon, it is also necessary to consider the effects of artificial propagation and transfers. In general, introduced salmon populations will not be considered for protection under the ESA, and changes caused by artificial propagation or hybridization may also erode qualities by which a population is recognized as distinct (Waples 1991). The extent to which these efforts have altered the genetic makeup of indigenous populations is not understood fully. Hindar *et al.* (in press) found evidence, in some cases, that hatchery-reared fish had interbred with native fish, but they also found cases in which repeated supplementation had no detectable genetic effect on the indigenous population. In the Snake River, there are a number of streams without any recorded history of outplanting, others have been planted with only minimal numbers of nonindigenous fish, and others have had extensive stock transfers and evidence of hybridization (for more detail, see ETSD 1991). Presumably, the native fish in streams with little or no outplanting retain essentially unchanged genetic characteristics of the native populations.

One area for which the evidence of stock transfers and hybridization is overwhelming is the Clearwater River. Indigenous chinook salmon populations were virtually, if not completely eliminated by the Lewiston Dam (1927–1940). Subsequent efforts to restore the runs included transfer of eggs from the Salmon River subbasin and massive outplants of juveniles from hatcheries throughout the Columbia River Basin. Descendants of these fish of mixed, non-native origin are not considered part of the ESU for Snake River spring/summer chinook salmon.

Distribution and Abundance

Historically, it is estimated that 44 percent of the combined Columbia River spring/summer chinook salmon returning adults entered the Salmon River (Fulton 1968). Matthews and Waples (1991) combined a number of estimates (Fulton 1968; Chapman 1986; CBFWA 1990) and concluded that during some years in the late 1800s, the Snake River produced in excess of 1.5 million spring/summer chinook salmon. From 1950 through 1960, the abundance of adult spring/summer chinook salmon had declined to an average of 125,000 per year (Fulton 1968). Since the 1960s, counts at Snake River dams have declined considerably, from an average at Ice Harbor Dam of 58,798 fish during 1962 through 1970, to a low of 11,855 in 1979. Counts gradually increased over the next 9 years, peaking at 42,184 in 1988. However, in 1989 and 1990, counts dropped to 21,244 and 26,524 fish, respectively. These numbers are illustrative of population trends, but are not indicative of wild fish abundance, because adult counts at dams have been confounded by returns of hatchery-reared fish since 1967.

Matthews and Waples (1991) estimated the abundance of wild fish going over the uppermost Snake River dam (1968—Ice Harbor Dam; 1969—Lower Monumental Dam; 1970–74—Little Goose Dam; and 1975–90—Lower Granite Dam) utilizing an expansion factor based on the relationship between adult counts at the uppermost dam and redd counts in index areas prior to hatchery influence. Redd counts are available since 1957 from all Snake River index areas except the Grande Ronde River, for which enumeration began in 1964. Using this method, the estimated number of wild adult spring/summer chinook salmon passing over Lower Granite Dam averaged 9,674 fish from 1980 through 1990, with a low count of 3,343 fish in 1980 and a high count of 21,870 fish in 1988.

Snake River redd counts in index areas provide the best indicator of trends and status of the wild spring/summer chinook salmon population. In 1957, over 13,000 redds were counted in index areas excluding the Grande Ronde River. By 1964, including the counts in Grande Ronde River, the annual count in index areas was 8,542 redds. Over the next 16 years, annual counts in all areas declined steadily, reaching a minimum of 620 redds in 1980. Annual counts increased gradually over the next 8 years, reaching a peak of 3,395 redds in 1988. However, in 1989 and 1990, counts dropped again to 1,008 and 1,224, respectively.

The abundance of wild Snake River spring/summer chinook salmon has declined more at the mouth of the Columbia River than the redd trends indicate (Chapman *et al.* 1991). Prior to curtailment in the mid-1970s, the in-river fisheries in the lower Columbia River below McNary Dam harvested 20 to 88 percent of these fish annually (Raymond 1988). Therefore, any analysis of population decline using redd counts provides a conservative approximation of the actual decline in abundance of adults.

Factors relevant to the determination of whether a "species" is threatened or endangered include current and historical abundance, population trends, the distribution of fish in space and time, and other information indicative of the health of the population. Nearly 95

percent of the total reduction in estimated abundance occurred prior to the mid-1900s. Over the last 30–40 years, the remaining population was further reduced nearly ten-fold. Currently, the abundance of these fish is about 0.5 percent of the estimated historical abundance. Furthermore, the 1990 (1,224) redd count in index areas represents only 14.3 percent of the 1964 count (8,542).

Although the data suggest that several thousand wild spring/summer chinook salmon currently return to the Snake River each year, these fish are thinly spread over a large and complex river system. In cases where significant population subdivision has occurred within the Snake River Basin, the size of some local populations have declined to levels at which risks associated with inbreeding, difficulty of finding spawning mates, and other random factors become important. Short-term projections for Snake River spring/summer chinook salmon are not optimistic. Based upon the lowest return on record of jack (precocious male salmon that return after 1 year of ocean residence) spring/summer chinook salmon return to Lower Granite Dam in 1990 (357 compared to 2,451 in 1989), adult and redd count are expected to drop considerably over the next 2 years. Furthermore, the recent series of drought years severely reduced the number of outmigrating juveniles that must produce returning adults in the next few years.

Summary of Factors Affecting the Species

Section 2(a) of the ESA states that various species of fish, wildlife, and plants in the United States have been rendered extinct as a consequence of economic growth and development untempered by adequate concern and conservation. The ESA requires a determination whether a species is threatened or endangered because of any of the five factors identified in section 4(a)(1). These factors, as they apply to Snake River spring/summer chinook salmon, are discussed extensively in the NMFS' "Supplementary Information on Factors Causing Decline for the Notice of Proposed Rulemaking, Snake River Spring/Summer Chinook Salmon" (ETSD 1991). This report is available upon request (see **ADDRESSES**). A brief description of these factors follows.

A. The present or threatened destruction, modification, or curtailment of its habitat or range

Hydropower development has resulted in blockage and inundation of habitat, turbine-related mortality of juvenile fish, increased delay of juvenile migration through the Snake and Columbia Rivers, increased predation on juvenile salmon due to residualism in reservoirs and increased predator populations due to ideal foraging areas created by impoundments, and increased delay of adults on their way to spawning grounds. Water withdrawal and storage, irrigation diversions, siltation and pollution from sewage, farming, grazing, logging, and mining also degraded the Snake River spring/summer chinook salmon's habitat.

B. Overutilization for commercial, recreational, scientific, or educational purposes

Historically, combined ocean and river harvest rates of Snake River spring/summer chinook salmon exceeded 80 and sometimes 90 percent (Ricker 1959). However, current ocean and river harvest levels have been greatly curtailed in the commercial, recreational, and Indian fisheries due to low escapements and efforts to protect these runs. The majority of current harvest occurs in the Columbia River net fisheries. Recreational fishing in the Columbia River is second in significance (Berkson 1991). Columbia River fisheries directed toward other species can also impact significant numbers of spring/summer chinook salmon (ODFW and WDF 1989).

C. Disease or predation

Spring/summer chinook salmon are exposed to numerous bacterial, protozoan, viral, and parasitic organisms; however, these organisms' impacts on Snake River spring/summer chinook salmon are largely unknown.

Predators, particularly northern squawfish, *Ptychocheilus oregonensis*, and avian predator populations have increased due to hydroelectric development that created impoundments providing ideal foraging areas for the predators. Turbulent conditions in turbines, dam bypasses, and spillways have increased predator success by stunning or disorienting passing juvenile salmon migrants.

Marine mammal numbers, especially harbor seals and California sea lions, are increasing on the West Coast and increases in predation by pinnipeds have been noted in all Northwest salmonid fisheries. However, the extent to which predation is a factor causing the decline of spring/summer chinook salmon is unknown.

D. Inadequacy of existing regulatory mechanisms

A wide variety of Federal and state laws and programs have affected the abundance and survival of anadromous fish populations in the Columbia River. However, they have not prevented the decline of Snake River spring/summer chinook salmon. Several of the more pertinent laws are summarized in the Factors Report.

E. Other natural and manmade factors

Drought is the principal natural condition that may have contributed to reduced spring/summer chinook salmon production. Annual mean streamflows for the 1977 water year were generally less than ever recorded for many streams since the late nineteenth century (Columbia River Water Management Group 1978). The 1990 water year became the fourth consecutive year of drought conditions in the Snake River Basin (Columbia River Water Management Group—in press).

Artificial propagation has, in some cases, impacted the Snake River spring/summer chinook salmon. Potential problems associated with hatchery programs include genetic impacts on indigenous wild populations from stock transfers and reduced natural production due to collection of wild adults for hatchery brook stocks. Several hatchery brood stocks were initiated, at least in part, by trapping wild fish, and native returns are still utilized for a portion of their brood stock. In recent years, at least one hatchery has produced less than one adult for each wild fish collected.

Proposed Determination

The ESA defines an endangered species as any species in danger of extinction throughout all or a significant portion of its range; and a threatened species as any species likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. Section 4(b)(1) of the ESA requires that the listing determination be based solely on the best scientific and commercial data available, after conducting a review of the status of the species and after taking into account those efforts, if any, being made to protect such species.

Based on its assessment of the best scientific and commercial information available, NMFS is issuing a proposed determination that the Snake River spring/summer chinook salmon is a "species" under the ESA. This collective evidence does not suggest that the ESU is in danger of extinction throughout a

significant portion of its range, but the ESU may reach that point in the foreseeable future if corrective measures are not taken. Therefore, NMFS proposes to list the Snake River spring/summer chinook salmon as threatened.

Proposed Protective Regulations

NMFS proposes to adopt protective measures to prohibit, with respect to Snake River spring/summer chinook, taking, interstate commerce, and the other ESA prohibitions applicable to endangered species, with the exceptions provided by the ESA for endangered species. This is the normal course followed by the U.S. Fish and Wildlife Service with respect to threatened listings (see 50 CFR 17.31(a)).

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the ESA include recognition, prohibitions on taking, recovery actions, and Federal agency consultation requirements. Recognition through listing promotes conservation actions by Federal and state agencies and private groups and individuals.

Section 7(a)(4) of the ESA requires that Federal agencies confer with NMFS on any actions likely to jeopardize the continued existence of a species proposed for listing and on actions resulting in destruction or adverse modification of proposed critical habitat. For listed species, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or conduct are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may adversely affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with NMFS.

Examples of Federal actions that may be affected by this proposal include authorized purposes of mainstem Columbia River and Snake River hydroelectric and storage projects. Such authorized purposes include hydroelectric power generation, flood control, irrigation, and navigation. Federal actions including COE section 404 permitting activities under the Clean Water Act, COE section 10 permitting activities under the Rivers and Harbors Act, and FERC licenses for non-Federal development and operation of hydropower may also be affected.

Based on information presented in this proposed rule, general conservation measures that could be implemented to help conserve the species are listed below. This list does not constitute NMFS' interpretation of a recovery plan under section 4(f) of the ESA.

(1) Efforts could be made to ensure that adult passage facilities at dams effectively pass migrating salmon upstream.

(2) Flows in the Snake and Columbia Rivers could be regulated to pass downstream migrating juvenile fish through the system more effectively. It is recognized that coordination of hydropower production in the Northwest is a continuous, long-term effort, and that some changes cannot be made on short notice. However, NMFS believes that the parties responsible for flow regulation have sufficient authority and flexibility to improve flow conditions for Snake River spring/summer chinook salmon immediately. Additional provisions could also be incorporated into ongoing planning for system regulation in the spring and early summer of 1992. Beyond these short-term needs, the parties could also begin to address longer term needs through development of improved institutional mechanisms for the definition and treatment of fishery flow requirements in system regulation studies and implementation under the Pacific Northwest Coordination Agreement. Progress could also be made in power planning through greater consideration of resources and strategies that complement, rather than conflict, with the need for increased flows, and thus increase hydroelectric power generation in spring and summer. NMFS encourages efforts such as these during the period between this proposed rule and a final ruling.

(3) All water diversions affecting downstream migrating juvenile spring/summer chinook salmon could be screened. Chinook salmon juveniles migrate downstream from late March through June. Many unscreened diversions and existing screens in need of replacement have been identified, and a thorough review of the impact of irrigation diversions on spring/summer chinook salmon could be conducted.

(4) All irrigation diversion structures could be surveyed and adequate adult fish passage facilities provided.

(5) All water diversions could have adequate headgate and staff gauge structures installed to control and monitor water usage accurately. Water rights should be enforced to prevent irrigators from exceeding the amount of water to which they are legally entitled.

(6) Research could be conducted to evaluate the mortality level associated with the catch of sub-legal (undersize) Snake River spring/summer chinook salmon caught in ocean troll fisheries.

(7) Artificial propagation could be conducted in a manner minimizing impacts upon native populations of chinook salmon.

Critical Habitat

Section 4(a)(3)(A) of the ESA requires that, to the extent prudent and determinable, critical habitat be designated concurrently with the listing of a species. To avoid delaying this listing proposal, NMFS will propose critical habitat in a separate rulemaking.

Public Comments Solicited

To ensure that the final action resulting from this proposal will be as accurate and as effective as possible, NMFS is soliciting comments and suggestions from the public, other concerned governmental agencies, the scientific community, industry, and any other interested parties. Four public hearings have been scheduled (see **DATES** and **ADDRESSES**). The final decision on this proposal will take into consideration the comments and any additional information received by NMFS, and may differ from this proposed rule.

Classification

The 1982 amendments to the ESA (Pub. L. 97–304) in section 4(b)(1)(A), restricted the information that may be considered when assessing species for listing. Based on this limitation of criteria for a listing decision and the opinion in *Pacific Legal Foundation* v. *Andrus*, 657 F.2d 829 (6th Cir., 1981), NMFS has categorically excluded all endangered species listings from environmental assessment requirements of the National Environmental Policy Act (48 FR 4413, February 6, 1984).

The Conference Report on the 1982 amendments to the ESA notes that economic considerations have no relevance to determinations regarding the status of species, and that E.O. 12291 economic analysis requirements, the Regulatory Flexibility Act, and the Paperwork Reduction Act are not applicable to the listing process. Similarly, listing actions are not subject to the requirements of E.O. 12612.

References

The complete citations for the references used in this document can be found in one of the following:

Environmental and Technical Services Division. 1991. Supplementary information on factors causing decline for the notice of proposed rulemaking, Snake River spring/summer chinook salmon. National Marine Fisheries Service. June, 1991.

Matthews, G.M. and R.S. Waples. 1991. Status review for Snake River spring and summer chinook salmon. U.S. Dep. Commer., NOAA Tech. Memo. NMFS F/NWC–200, 75 p.

Waples, R.S. 1991. Definition of "species" under the Endangered Species Act: Application to Pacific salmon. U.S. Dep. Comme., NOAA Tech. Memo. NMFS F/NWC–194. 29 p.

List of Subjects in 50 CFR Part 227

Endangered and threatened species, Exports, Imports, Marine mammals, Transportation.

Dated: June 21, 1991.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries.

For the reasons set out in the preamble, 50 CFR part 227 is proposed to be amended as follows:

PART 227—THREATENED FISH OR WILDLIFE

1. The authority citation of part 227 continues to read as follows:

Authority: 16 U.S.C. 1531 *et seq.*

2. In § 227.4, a new paragraph (g) is added to read as follows:

§ 227.4 Enumeration of threatened species.

* * * * *

(g) Snake River spring/summer chinook salmon (*Oncorhynchus tschawytscha*).

3. In subpart C, a new § 227.22 is added to read as follows:

§ 227.22 Snake River spring/summer chinook salmon.

(a) *Prohibitions.* The prohibitions of section 9 of the Act (16 U.S.C. 1538) relating to endangered species apply to the Snake River spring/summer chinook salmon except as provided in paragraph (b) of this section.

(b) *Exceptions.* The exceptions of section 10 of the Act (16 U.S.C. 1539) and other exceptions under the Act relating to endangered species, and the provisions of regulations issued under the Act relating to endangered species (such as 50 CFR part 222, subpart C—Endangered Fish or Wildlife Permits), also apply to the Snake River spring/summer chinook salmon. This section supersedes other restrictions on the applicability of 50 CFR part 222, including, but not limited to, the restrictions specified in §§ 222.2(a) and 222.22(a) of this chapter.

[FR Doc. 91–15243 Filed 6–26–91; 8:45 am]

BILLING CODE 3510–22–M

50 CFR Part 227

[Docket No. 910649–1149]

Endangered and Threatened Species; Proposed Threatened Status for Snake River Fall Chinook Salmon

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Proposed rule.

SUMMARY: NMFS is issuing a proposed determination that the Snake River fall chinook salmon (*Oncorhynchus tshawytscha*) is a "species" under the endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.* (ESA). Further, NMFS proposes to list the Snake River fall chinook salmon as threatened under the ESA. The Snake River fall chinook salmon has experienced a substantial decline in abundance, and is currently distributed over a fraction of its former range. Hydroelectric development, commercial harvest, water withdrawal, water storage, and inadequate regulatory mechanisms are the primary factors contributing to the "species" decline. Should the proposed listing be made final, protective regulations under the ESA would be put into effect and a recovery program would be implemented.

DATES: Comments from all interested parties must be received by August 26, 1991. Public hearings are scheduled as follows:

1. July 30, 1991, 7 p.m. to 9:30 p.m., Portland, Oregon;

2. July 31, 1991, 7 p.m. to 9:30 p.m., Seattle, Washington;

3. August 1, 1991, 7 p.m. to 9:30 p.m., Richland, Washington;

4. August 7, 1991, 7 p.m. to 9:30 p.m., Boise, Idaho.

ADDRESSES: Comments on this proposed rule should be sent to the Environmental and Technical Services Division, NMFS, Northwest Region, 911 NE 11th Avenue, suite 620, Portland, OR 97232, or provided at any one of the public hearings. The hearings will be held at the following locations:

1. 1st Floor West Side, Federal Complex, 911 NE 11th Ave., Portland, Oregon;

2. NOAA, Western Administrative Support Center, Building 9 Auditorium, 7600 Sand Point Way, NE., Seattle, Washington;

3. Richland Federal Building Auditorium, 825 Jadwin Avenue, Richland, Washington;

4. Bosie Interagency Fire Center Auditorium, 3905 Vista Ave., Boise, Idaho.

FOR FURTHER INFORMATION CONTACT: Tracey Vriens, Environmental and Technical Services Division, NMFS, Portland, Oregon, 503–230–5420 or FTS–429–5420.

SUPPLEMENTARY INFORMATION:

Background

On June 7, 1990, NMFS received a petition from Oregon Trout, with co-petitioners Oregon Natural Resources Council, the Northwest Environmental Defense Center, American Rivers, and the Idaho and Oregon Chapters of the American Fisheries Society to list Snake River fall chinook salmon and to designate critical habitat under the ESA. NMFS published a notice on September 11, 1990 (55 FR 37342), that the petition presented substantial scientific information indicating that the listing may be warranted and requested information from the public.

NMFS has reviewed available scientific information pertaining to the stautus of Snake River fall chinook salmon. To assist in this review, NMFS convened a Technical Committee to provide information and to review and comment on the data in the record. The Technical Committee consists of representatives from Federal and state agencies, Indian tribes, industry, professional societies and public groups that have expertise relevant to Snake River fall chinook salmon.

Status Review for Snake River Fall Chinook

The NMFS Northwest Region Biological Review Team prepared a "Status Review for Snake River fall chinook salmon" (Waples *et al.* 1991) providing more detailed information, discussion and references. This status review is available upon request (see **ADDRESSES**), and is summarized below.

Ecosystem

The Snake River is the major tributary of the Columbia River, entering the Columbia 324.3 miles (522 kilometers) upstream from the Pacific Ocean. The Snake River Basin includes a range of climatic, geological and vegetative zones and extends into five States (Idaho, Washington, Oregon, Wyoming and Nevada). The habitat occupied by fall chinook salmon in the Snake River appears to be unique to this race of chinook salmon. In contrast to coastal mountains and the Cascade Range, the Snake River drainage is composed of batholithic granite that is prone to erosion, creating relatively turbid water

with higher mineral content and alkalinity in comparison to the Columbia River and coastal areas. The region is relatively arid with warm summers resulting in higher annual temperatures than in many other salmon production areas in the Pacific Northwest. These characteristics combine to produce a highly productive habitat.

Chapman *et al.* (1991) described ten geologic provinces in the Snake River Basin, each being unique to some degree in the type of habitat it provides for anadromous salmonids, in terms of both geology and climate. Together, these areas form an aquatic ecosystem for chinook salmon that is unique in the Columbia River Basin and, probably, the world. Utter *et al.* (1982) reported that the Snake and Columbia Rivers differ ecologically in a number of ways. Habitat characteristics of the Snake River Basin provide strong evidence of ecological/genetic distinctness of Snake River fall chinook salmon.

Life History

The life history of Snake River fall chinook salmon reflects unique adaptations to the Snake River Basin. Snake River fall chinook salmon adults enter the Columbia River in July, reaching the Snake River from the middle of August through October. Snake River fall chinook salmon historically sustained the longest freshwater migration (940 miles, 1,512 km) of any North American chinook salmon population with a juvenile life history strategy of subyearling migration to the ocean. Although fall chinook salmon are presently restricted to the lower Snake River, genes associated with this lengthy migration may still reside in the population. Given this extended freshwater migration, Snake River fall chinook salmon retain their coloration and flesh quality longer than lower Columbia River fall chinook salmon.

Spawning occurs in October and November (Bugert *et al.* 1990) in the mainstem Snake River from the upper extent of Lower Granite Dam pool to Hells Canyon Dam. Some spawning also occurs in the lower reaches of the Imnaha, Grande Ronde, Clearwater, and Tucannon Rivers, each a major subbasin of the Snake River.

Fall chinook salmon emerge from the gravel in March and April, and downstream migration usually begins with several weeks of emergence (Becker 1970; Allen and Meekin 1973). Water temperatures in the Snake River during summer months can exceed 25 °C (77 °F), and average monthly temperatures are often 6 to 8 °C higher than in the upper Columbia River (Utter *et al.* 1982). Elevated water temperatures are thought to preclude fall chinook salmon from rearing in the Snake River after mid-July (Van Hyning 1968; Chapman *et al.* 1990). Fall chinook salmon subyearlings are present in the Columbia River estuary from June to October (Rich 1922). Dawley *et al.* (1986) found that approximately 80 percent of all juvenile fall chinook salmon enter the estuary from late April through early September. Data specific to juvenile Snake River fall chinook salmon are unavailable.

Consideration as a "Species" Under the ESA

To consider the Snake River fall chinook salmon for listing, it must qualify as a "species" under the ESA. The ESA defines a "species" to include any "distinct population segment of any species of vertebrate . . . which in interbreeds when mature." NMFS published an interim policy (March 13, 1991; 56 FR 10542) on how it will apply the ESA species definition in evaluating Pacific salmon. This policy stipulates that a salmon population will be considered distinct, and hence a species under the ESA, if it represents an evolutionarily significant unit (ESU) of the biological species. The population must satisfy two criteria to be considered an ESU: (1) It must be reproductively isolated from other conspecific population units; and (2) it must represent an important component in the evolutionary legacy of the biological species. The first criterion, reproductive isolation, need not be absolute, but must be strong enough to permit evolutionarily important differences to accrue in different population units. The second criterion would be met if the population contributed substantially to the ecological/genetic diversity of the species as a whole. Further guidance on the application of this policy is contained in the NMFS paper "Definition of Species under the Endangered Species Act: Application to Pacific Salmon" (Waples 1991).

Determining whether Snake River fall chinook salmon constitute a "species" under the ESA is complicated by the presence of spring/summer chinook salmon in the Snake River, and fall chinook salmon in the upper Columbia River. Based on a previous status review in 1982, NMFS concluded that Snake River and upper Columbia River fall chinook salmon were separate, identifiable, and distinct populations that warrant designation as "species" under the ESA (Utter *et al.* 1982). Available evidence indicates that, through the early 1980s, Snake River fall chinook salmon met both criteria necessary to be an ESU—reproductive isolation and ecological/genetic distinctness.

Based on the first criterion, populations with different migration timing that are reproductively isolated should be considered separately under the ESA. Fish with different migration timing for which reproductive isolation cannot be established should be considered as a unit. Compelling evidence indicates that Snake River fall chinook salmon are reproductively isolated from spring/summer chinook salmon (Matthews and Waples 1991). The very low incidence of natural straying of upper Columbia River fall chinook salmon (McIssac and Quinn 1988), and consistent genetic differences between upper Columbia River and Snake River fall chinook salmon demonstrate significant, long-term reproductive isolation between these groups.

Available information indicates that Snake River fall chinook salmon satisfy the second criterion, which stipulates that a population must represent an important component in the evolutionary legacy of the biological species to be considered an ESU. Historically, the Columbia River system was the largest producer of chinook salmon in the world. Prior to 1960, the Snake River was the most important production area for fall chinook salmon in the Columbia River system (Bureau of Commercial Fisheries and Bureau of Sport Fisheries and Wildlife 1964). Unique ecological features of the Snake River Basin, characteristic freshwater habitats, contrasting ocean distribution patterns, and genetic differences relative to other chinook salmon, are evidence of the ecological/genetic distinctness of the Snake River fall chinook salmon.

It is noted that, since 1987, hatchery fall chinook salmon with genotypes characteristic of upper Columbia River fall chinook salmon have strayed into the Snake River in increasing numbers, and in 1990 some were recovered on the spawning grounds in the Snake River. However, the degree to which fall chinook salmon strays have produced viable progeny is unknown.

Evidence of introgression of upper Columbia River genes into Lyons Ferry Hatchery fall chinook salmon has prompted concern regarding the status of the Snake River fall chinook salmon ESU. However, because (1) Snake River fall chinook salmon represented an ESU prior to these straying events, (2) significant straying of hatchery reared Upper Columbia River fall chinook

salmon has occurred only within the last generation, and (3) direct evidence of genetic change in wild Snake River fall chinook salmon is lacking, NMFS concludes, based on the weight of existing information, that Snake River fall chinook salmon still represent an ESU.

NMFS concludes that the best available information indicates that this population satisfies both criteria necessary to be considered an ESU. Therefore, NMFS is issuing a proposed determination that the Snake River fall chinook salmon is a "species" under the ESA.

Distribution and Abundance

Historically, fall chinook salmon were widely distributed throughout the Snake River and many of its major tributaries from its confluence with the Columbia River near Pasco, Washington, upstream 615 miles (990 km) to Shoshone Falls, Idaho (Columbia Basin Interagency Committee 1957; Haas 1965; Fulton 1968; Van Hyning 1968; Lavier 1976). During the early 1900s, a weir was placed in the Snake River downstream of Swan Falls Dam near Ontario, Oregon, river mile (Rm) 372, river kilometer (Rkm) 599, to collect fall chinook salmon broodstock. Although only a portion of the returning fish were intercepted, more than 20 million eggs (a minimum of 4,000 females) were taken in a single year (Parkhurst 1950). This provides some indication of the distribution and large number of fall chinook salmon migrating into the upper reaches of the Snake River during this period. Historically, the most important spawning grounds for fall chinook salmon in the Snake River were between Huntington, Idaho (Rm 328, Rkm 527) and Auger Falls, Idaho (Rm 607, Rkm 977) (Evermann 1896). Fall chinook salmon production above Rm 456, Rkm 734, was terminated in 1907 by Swan Falls Dam, which obstructed the passage of returning adults (Parkhurst 1950).

Snake River fall chinook salmon abundance remained relatively stable until 1950, but declined substantially thereafter. The estimated mean number of fall chinook salmon returning annually to the Snake River decreased from 72,000 between 1928 and 1949, to 29,000 from 1950 through 1959 (Irving and Bjornn 1981). In spite of this significant decline in abundance, the Snake River remained the most important production area for fall chinook salmon in the Columbia River Basin through the 1950s (Fulton 1968).

The construction of Brownlee at Rm 285, Rkm 459 (1958), Oxbow at Rm 273, Rkm 439 (1961), and Hells Canyon Dams at Rm 247, Rkm 397 (1967), inundated spawning areas and prevented access to the primary production areas of Snake River fall chinook salmon when fish passage facilities at these projects proved to be inadequate (Van Hyning 1968). Snake River fall chinook salmon habitats were further reduced with the construction of Ice Harbor at Rm 10, Rkm 16 (1961), Lower Monumental at Rm 42, Rkm 67 (1969), Little Goose at Rm 70, Rkm 113 (1970), and Lower Granite Dams at Rm 108, Rkm 173 (1975).

For Snake River fall chinook salmon, dam counts represent the best indication of the population's recent abundance. Counts at the uppermost dam affording adult fish passage averaged 12,720 at Ice Harbor from 1969 through 1974, and 610 at Lower Granite from 1975 through 1980 (ODFW 1990; Corps unpublished). Since 1983, dam counts have been confounded by returns of hatchery-reared fish. Adult returns of hatchery-reared fish cannot be visually distinguished from wild Snake River chinook salmon in all cases because only a portion of these fish are marked. Recent efforts have established the number of hatchery-reared fall chinook salmon and wild Snake River fall chinook salmon returning to Lower Granite Dam. Based on these estimates, wild Snake River fall chinook salmon escapement to Lower Granite Dam varied from 428 adults in 1983 to 295 in 1989, and was 78 in 1990 (Washington Department of Fisheries 1991).

Summary of Factors Affecting the Species

Section 2(a) of the ESA states that various species of fish, wildlife, and plants in the United States have been rendered extinct as a consequence of economic growth and development untempered by adequate concern and conservation. The ESA requires a determination whether a species is threatened or endangered because of any of the five factors identified in section 4(a)(1). These factors, as they apply to Snake River fall chinook salmon, are discussed extensively in the NMFS' "Supplementary Information on Factors Causing Decline for the Notice of Proposed Rulemaking, Snake River Chinook Salmon" (ETSD 1991). This report is available upon request (see **ADDRESSES**). A brief description of these factors follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

Hydropower development has substantially curtailed the range of Snake River fall chinook salmon and inundated large amounts of accessible habitat, contributing significantly to the population's decline. Turbine-related juvenile mortality, delayed juvenile migration through the Snake and Columbia River, juvenile predation from the creation of ideal foraging areas and resulting increases in predator populations, and adult migration delays, have also resulted from hydropower development.

Water withdrawal for agriculture, and water storage to accommodate flood control objectives and increased hydropower production, have increased juvenile mortality and may result in the dessication of spawning areas and mortality of fall chinook salmon fry.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Columbia River chinook salmon harvest rates have exceeded 80 percent, and sometimes 90 percent, since 1926. The total exploitation rate for Lyons Ferry Hatchery fish, which are assumed to have the same distribution as wild Snake River fall chinook salmon, is estimated to be 74 percent. These harvest rates may be higher than Snake River fall chinook salmon can sustain.

C. Disease and Predation

Fall chinook salmon are exposed to numerous bacterial, protozoan, viral, and parasitic organisms. Very little current or historical information exists to quantify changes in infection levels and mortality rates attributable to these diseases for Snake River fall chinook salmon.

Freshwater predators, particularly northern squawfish (*Ptychocheilus oregonensis*), have increased in abundance due to hydroelectric development that created ideal foraging areas. Turbulent conditions associated with turbines, dam bypasses, and spillways have increased predatory success by disorienting juvenile salmon migrants.

Marine mammal abundance, particularly harbor seals and California sea lions, has increased along the Pacific Coast, and increases in marine mammal predation have been noted in Northwest salmon fisheries.

D. Inadequacy of Existing Regulatory Mechanisms

A variety of Federal and state laws and programs are factors in the decline of Snake River fall chinook salmon. Although some progress has occurred, regulatory mechanisms have failed to provide for the conservation of the population.

E. Other Natural and Manmade Factors

Artificial propagation activities have not been a primary factor in the decline of Snake River fall chinook salmon. However, the taking of Snake River fall chinook salmon for hatchery broodstock has reduced natural escapements, and the recent straying of fall chinook salmon from other areas into the Snake River threatens the genetic integrity of wild Snake River fall chinook salmon.

Proposed Determination

The ESA defines an endangered species as any species in danger of extinction throughout all or a significant portion of its range; and a threatened species as any species likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. Section 4(b)(1) of the ESA requires that determinations whether any species is threatened or endangered be based soley on the best scientific and commercial data available, after conducting a review of the status of the species and after taking into account those efforts, if any, being made to protect such species.

Regarding efforts being made to protect Snake River fall chinook salmon, NMFS believes that several measures merit consideration. During the planning of Lower Snake River Compensation Plan (LSRCP) production facilities, an egg bank program was initiated to ensure the conservation of Snake River origin fall chinook salmon. LSRCP efforts to maintain the integrity of Snake River fall chinook salmon were initially successful based on genetic monitoring of broodstock collection in 1977, 1978, 1979, and 1980 (Utter *et al.* 1982).

A review of coded-wire-tag (CWT) data showed that stray hatchery fish of Columbia River origin have been used as broodstock at LSRCP facilities (Lyons Ferry Hatchery) in recent years. These strays are predominantly upper Columbia River stock released as juveniles into the Umatilla River, a tributary of the Columbia River downriver from the confluence with the Snake River. Poor acclimation prior to release of these fish, and inadequate flow for returning adults resulting from the diversion of water from the Umatilla, are factors responsible for this straying. In the years 1984–1990, Columbia River strays made up 5, 11, 3, 4, 18, 39, and 25 percent, respectively, of the adults spawned at Lyons Ferry Hatchery.

Another consideration is the potential effect of stray Columbia River fish on the wild Snake River fall chinook salmon gene pool. Upper Columbia River fall chinook salmon comprised 1 to 2 percent of the adult fall chinook at Lower Granite Dam in 1984–1986, 6 to 9 percent in 1987–1988, and 25 to 29 percent in 1989–1990.

The Washington Department of Fisheries has implemented measures to minimize potential impacts of straying on Lyons Ferry Hatchery (LFH) broodstock (the only Snake River hatchery now producing fall chinook salmon), and wild Snake River fall chinook salmon (Washington Department of Fisheries 1991). All juvenile fall chinook salmon from 1989 LFH broodstock were marked, and will be excluded from use as broodstock upon their return as adults. Only progeny from confirmed LFH adults that returned in 1990 will be used for future broodstock. Commencing in 1991, all LFH fish will be tagged (CWT), and only confirmed LFH fish will be used as broodstock. During the previous 14 years, an average of 31 percent of the wild Snake River fall chinook salmon population is estimated to have been taken annually for broodstock purposes. The exclusive use of known LFH fish in broodstock collection will also allow significantly more wild Snake River fall chinook salmon to reach their spawning grounds beginning in 1991.

In addition to these measures, other efforts are underway to protect Snake River fall chinook salmon. The Oregon Department of Fish and Wildlife has initiated actions to reduce the straying of Umatilla fall chinook salmon into the Snake River by improving the acclimation of juvenile fall chinook salmon released into the Umatilla River, and beginning in 1991, marking all such releases for later identification. Facilities specifically designed to provide additional flow in the Umatilla River and reduce adult straying are under construction by the Bureau of Reclamation.

Prior to 1991, the Pacific Fisheries Management Council (PFMC) did not consider Snake River fall chinook salmon separately from upper Columbia River fall chinook salmon in the management of ocean fisheries. Management measures adopted by the PFMC for 1991 specifically address fishery impacts on Snake River fall chinook salmon and reduce the total ocean exploitation rate of Snake River fall chinook salmon relative to 1990 harvest rates by 20 percent (PFMC 1991).

Mortality of juvenile fall chinook salmon at dams and in reservoirs can be significantly reduced by collecting juveniles and transporting them downriver around the dams by barge and trucks. The Regional Salmon Program for 1991, implemented by the States of Idaho, Oregon, and Washington, Federal agencies, Indian tribes, utilities, and other interests, includes a commitment to provide maximum salmon and extend the transportation program through October (Andrus et. al. 1991).

Reductions in Snake River flows by the Hells Canyon Dam Complex have previously resulted in the dessication of spawning areas and mortality of emerging salmon fry. Projected reductions in flow during May 1991 to 5 to 7 kcfs (142 to 198 cubic meters per second) were expected to jeopardize Snake River fall chinook salmon nests (38 documented redds) spawned from October through December of 1990 at flows of approximately 12 kcfs (340 cubic meters per second). To protect these fish, flow augmentation from Brownlee Reservoir was requested (Fish Passage Center 1991) and ultimately provided through the system operation process, a coordinated effort between state and Federal agencies, Indian tribes and system managers.

Based on its assessment of available scientific and commercial information, and after taking into account those efforts being made to protect the species, NMFS is issuing a proposed determination that Snake River fall chinook salmon is a threatened "species" under the ESA. This collective evidence indicates that Snake River fall chinook salmon are likely to become an endangered species within the foreseeable future if corrective measures are not implemented.

Proposed Protective Regulations

NMFS proposes to adopt protective measures to prohibit, with respect to Snake River fall chinook, taking, interstate commerce, and the other ESA prohibitions applicable to endangered species, with the exceptions provided by the ESA. This is the normal course followed by the U.S. Fish and Wildlife Service with respect to threatened listings (see 50 CFR 17.31(a)).

Available Conservation Measures

Conservation measures provided to species listed as threatened or endangered under the ESA include prohibitions on taking, recovery actions, and Federal agency consultation requirements. Recognition through listing promotes conservation actions by Federal and state agencies and private groups and individuals.

Section 7(a)(4) of the ESA requires that Federal agencies confer with NMFS on any actions likely to jeopardize the continued existence of a species proposed for listing an on actions resulting in destruction or adverse

modification of proposed critical habitat. For listed species, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or conduct are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may adversely affect a listed species or it critical habitat, the responsible Federal agency must enter into formal consultation with NMFS.

Examples of Federal actions that may be affected by this proposal include operations of mainstem Columbia River and Snake River hydroelectric and storage projects. Such operations include hydroelectric power generation, flood control, irrigation, and navigation. Federal actions including COE section 404 permitting activities under the Clean Water Act, COE section 10 permitting activities under the Rivers and Harbors Act, and Federal Energy Regulatory Commission licenses for non-Federal development and operation of hydropower may also be affected.

Based on information presented in this proposed rule, general conservation that could be implemented to help conserve the species are listed below. This list does not constitute NMFS' interpretation of a recovery plan under section 4(f) of the ESA.

(1) Operate adult passage facilities as mainstem Snake and Columbia River dams to pass migrating salmon upstream more effectively.

(2) Regulate flows in the Snake and Columbia Rivers to pass downstream migrating juvenile fish through the system more effectively and protect incubating eggs. NMFS believes that the parties responsible for flow regulation have sufficient authority and flexibility to improve immediately flow conditions for Snake River fall chinook salmon. These parties could also address the definition and treatment of fishery flow requirements in system regulation under the Pacific Northwest Coordination Agreement. Greater consideration of resources and strategies that complement, rather than conflict, with the need for increased flows is necessary in power planning. NMFS encourages the implementation of measures to improve flows during the period between this proposed rule and a final ruling.

(3) Install adequate headgate and staff gauge structures to control and monitor water usage accurately. Enforce water rights at all water diversions to prevent withdrawals exceeding legal entitlement.

(4) Further evaluate mortality associated with the catch of sub-legal (undersize) Snake River fall chinook salmon in ocean troll fisheries.

(5) Conduct artificial propagation to minimize impacts to Snake River fall chinook salmon. Necessary measures include:

(a) Tag all hatchery reared fall chinook salmon released into the Snake River, Umatilla River and into the Columbia River upstream from the confluence with the Snake River.

(b) Remove marked adult fall chinook salmon returning to the Snake River at fish collection facilities to minimize their escapement to spawning areas and potential introgression with wild Snake River fall chinook salmon.

(c) Allow all unmarked adult fall chinook salmon (potentially wild fish) in the Snake River to escape to spawning areas. Exclude Wild Snake River fall chinook salmon from hatchery broodstock collection at this time.

(6) Manage harvest activities specifically to consider and provide Snake River fall chinook salmon escapement necessary to allow the population to recover.

Critical Habitat

Section 4(a)(3)(A) of the ESA requires that, to the extent prudent and determinable, critical habitat be designated concurrently with the listing of a species. To avoid delaying this listing proposal, NMFS will propose critical habitat in a separate rulemaking.

Public Comments Solicited

To ensure that the final action resulting from this proposal will be as accurate and as effective as possible, NMFS is soliciting comments and suggestions from the public, other concerned governmental agencies, the scientific community, industry, and any other interested parties. Four public hearings have been scheduled (see **DATES** and **ADDRESSES**). The final decision on this proposal will take into consideration the comments and any additional information received by NMFS, and may differ from this proposed rule.

Classification

The 1982 amendments to the ESA (Pub. L. 97-304) in section 4(b)(1)(A), restricted the information that may be considered when assessing species for listing. Based on this limitation of criteria for a listing decision and the opinion in *Pacific Legal Foundation* v. *Andrus*, 657 F.2d 829 (6th Cir., 1981), NMFS has categorically excluded all endangered species listings from environmental assessment requirements of the National Environmental Policy Act (48 FR 4413, February 6, 1984).

The Conference Report on the 1982 amendments to the ESA notes that economic considerations have no relevance to determinations regarding the status of species, and that E.O. 12291 economic analysis requirements, the Regulatory Flexibility Act, and the Paperwork Reduction Act are not applicable to the listing process. Similarly, listing actions are not subject to the requirements of E.O. 12612.

References

The complete citations for the references used in this document can be found in one of the following:

Environmental and Technical Services Division. 1991. Supplementary information factors causing decline for the notice of proposed rulemaking, Snake River fall chinook salmon. National Marine Fisheries Service. June, 1991.

Waples, R.S. 1991. Definition of "species" under the Endangered Species Act: Application to Pacific salmon. U.S. Dep. Comme., NOAA Tech. Memo. NMFS F/NWC-194. 29 p.

Waples, R.S., R.P. Jones, Jr., B.R. Beckman, and G.A. Swan. 1991. Status review for Snake River fall chinook salmon. U.S. Dep. Commer., NOAA Tech. Memo. NMFS F/NWC-201, 73 p.

List of Subjects in 50 CFR Part 227

Endangered and threatened species, Exports, Imports, Marine mammals, Transportation.

Dated: June 21, 1991.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries.

For the reasons set out in the preamble, 50 CFR part 227 is proposed to read as follows:

PART 227—THREATENED FISH OR WILDLIFE

1. The authority citation of part 227 continues to read as follows:

Authority: 16 U.S.C. 1531 *et seq.*

2. In § 227.4, a new paragraph (h) is added to read as follows:

§ 227.4 Enumeration of threatened species.

* * * * *

(h) Snake River fall chinook salmon (*Oncorhynchus tschawytscha*).

3. In subpart C, a new § 227.23 is added to read as follows:

§ 227.23 Snake River fall chinook salmon.

(a) *Prohibitions.* The prohibitions of section 9 of the Act (16 U.S.C. 1538) relating to endangered species apply to the Snake River fall chinook salmon except as provided in paragraph (b) of this section.

(b) *Exceptions.* The exceptions of section 10 of the Act (16 U.S.C. 1539) and other exceptions under the Act relating to endangered species, and the provisions of regulations issued under the Act relating to endangered species (such as the 50 CFR part 222, subpart C—Endangered Fish or Wildlife Permits), also apply to the Snake River fall chinook salmon. This section supersedes other restrictions on the applicability of 50 CFR part 222, including, but not limited to, the restrictions specified in §§ 222.2(a) and 222.22(a) of this chapter.

[FR Doc. 91–15244 Filed 6–26–91; 8:45 am]

BILLING CODE 3510–22–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 910648–1148]

Endangered and Threatened Species; Lower Columbia River Coho Salmon

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of determination.

SUMMARY: On June 7, 1990, NMFS received a petition from Oregon Trout, with co-petitioners Oregon Natural Resources Council, the Northwest Environmental Defense Center, American Rivers, and the Idaho and Oregon Chapters of the American Fisheries Society, to list lower Columbia River coho salmon and to designate critical habitat under the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.* (ESA). NMFS published a notice on September 11, 1990 (55 FR 37342), that the petition presented substantial scientific information indicating that the listing may be warranted. NMFS also announced its intention at that time to conduct a status review of lower Columbia River coho salmon and requested comments from any party having relevant information. A Technical Committee comprised of individuals with expertise relevant to lower Columbia River coho salmon, representing public interest groups, Federal and State agencies, Indian tribes, industry and professional societies was convened by NMFS to provide technical information and comment on data in the administrative record. NMFS has evaluated the status of lower Columbia River coho salmon and concluded that available biological evidence indicates that these fish do not constitute a "species" under the ESA and, therefore, a proposal to list is not warranted at this time.

ADDRESSES: Environmental and Technical Services Division, NMFS, Northwest Region, 911 NE. 11th Avenue, suite 620, Portland, OR 97232.

FOR FURTHER INFORMATION CONTACT: Tracey Vriens, Environmental and Technical Services Division, NMFS, Portland, Oregon, 503–230–5420 or FTS–429–5420.

SUPPLEMENTARY INFORMATION: The NMFS Northwest Region Biological Review Team prepared a "Status Review for Lower Columbia River Coho Salmon" providing more detailed information, discussion and references. The status review is available upon request (see **ADDRESSES**), and is summarized below.

Background

Coho salmon (*Oncorhynchus kisutch*) range throughout the temperate waters of the northern Pacific Ocean. The species was once abundant throughout the Columbia River Basin, with naturally spawning populations exceeding 600,000 fish annually. Two-thirds of the historical Columbia River coho salmon production is thought to have originated in the lower Columbia River (LCR). The LCR, for the purposes of this document, is defined as the Columbia River and its tributaries below Bonneville Dam. Columbia River (upstream from John Day Dam) and Snake River coho salmon were drastically reduced or eliminated prior to the 1950s and are now extinct. LCR coho salmon were reduced to less than 5 percent of historic abundance levels by the late 1950s. Excessive harvest and habitat alteration are the primary factors responsible for this decline of Columbia River coho salmon.

This drastic decline in coho salmon abundance precipitated the development of an extensive hatchery program which restored LCR coho salmon adult returns to historic levels, often exceeding 400,000 fish annually during the last 30 years. Intensive hatchery production and the overharvest of wild coho salmon in mixed stock fisheries resulted in their continued decline. The LCR is managed exclusively for the commercial exploitation of hatchery coho salmon.

Consideration as a "Species" Under the ESA

To consider LCR coho salmon for listing, it must qualify as a "species" under the ESA. The ESA defines a "species" to include any "distinct population segment of any species of vertebrate * * * which interbreeds when mature." NMFS published an interim policy (March 13, 1991; 56 FR 10542) on how it will apply the ESA species definition in evaluating Pacific salmon. This policy provides that a salmon population will be considered distinct, and hence a species under the ESA, if it represents an evolutionary significant unit (ESU) of the biological species. The population must satisfy two criteria to be considered an ESU: (1) It must be reproductively isolated from other conspecific population units; and (2) it must represent an important component in the evolutionary legacy of the biological species. The first criterion, reproductive isolation, need not be absolute, but must be strong enough to permit evolutionarily important differences to accrue in different population units. The second criterion would be met if the population contributed substantially to the ecological/genetic diversity of the species as a whole. Further guidance on the application of this policy is contained in the NMFS paper "Definition of Species under the Endangered Species Act: Application to Pacific Salmon" and is available upon request (see **ADDRESSES**).

Regarding the first criterion, available information is not conclusive as to whether LCR coho salmon are reproductively isolated from coastal populations of coho salmon in Washington and Oregon. Available information does not indicate that LCR coho salmon satisfy the second criterion, which stipulates that a population must represent an important component in the evolutionary legacy of the biological species to be considered "distinct" (and hence a "species") for the purposes of the ESA. Information on coho salmon habitat utilization, life-history characteristics, and phenotypic and genetic traits was inconclusive, and did not demonstrate that LCR coho salmon are "distinct" from other wild coho salmon populations.

Special Considerations

The release of hatchery-reared fish into an area inhabited by a wild population, and overharvest, can affect a wild population to such an extent that it does not represent a "distinct" population segment under the ESA. Each of these factors has profoundly affected LCR coho salmon.

Non-indigenous coho salmon stocks have been extensively transferred into the LCR since the 1890s. All of the LCR coho salmon hatchery stocks evaluated exhibited a heritage of coastal or other non-indigenous coho salmon. Although the effect of non-indigenous stock transfers on the genetic character of LCR coho salmon has not been adequately studied, the extent and magnitude of these transfers suggest that significant introgression of non-indigenous stocks has occurred into LCR hatcheries.

Coho salmon have also been extensively transferred from various hatcheries into streams and drainages throughout the LCR. This practice (outplanting) began in the early 1960s and continues today (a period of over ten coho salmon generations) and has resulted in hatchery fish being transferred into practically every accessible stream in the LCR. In 1986, researchers from the Oregon Department of Fish and Wildlife found the density of wild coho salmon in

streams supplemented with hatchery coho salmon fry was reduced by over 40 percent and that the majority of returning adults from the year of the outplants had run-times representative of the hatchery, rather than of the wild population. Thus, outplanting, combined with the high percentage of coho salmon from hatcheries spawning in the wild, likely resulted in significant hatchery introgression of the indigenous population throughout the LCR.

Overharvest has severely affected wild coho salmon indigenous to the LCR. Ocean and in-river harvest rates for LCR coho salmon increased dramatically during the 1960s, and have stabilized at approximately 90 percent. Conservation measures for wild coho salmon indigenous to the LCR were not incorporated into the operation of hatcheries constructed to mitigate the decline in this population. Increased hatchery production, beginning in the 1960s, allowed harvest rates to remain high, and wild LCR coho salmon, already depressed in abundance, were not afforded an opportunity to recover.

Determination

Section 4(b)(1)(a) of the ESA requires that determinations whether any species is threatened or endangered be based solely on the best scientific and commercial information available after conducting a review of the status of the species. NMFS has evaluated the status of LCR coho salmon and determined that available biological evidence does not indicate that these fish represent a "species" under the ESA; therefore, a proposal to list LCR coho salmon under the ESA is not warranted at this time.

Dated: June 21, 1991.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries.

[FR Doc. 91-15245 Filed 6-26-91; 8:45 am]

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federal register

Thursday
June 27, 1991

Part VI

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Parts 7 and 52
Federal Acquisition Regulation; Contractor Versus Government Performance; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 7 and 52

[FAR Case 91-26]

Federal Acquisition Regulation; Contractor versus Government Performance

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering amendments to FAR subpart 7.3 to (a) alert the contracting officer to the possibility of performing a cost comparison for the specific reason that commercial prices were believed to be unreasonable; and (b) make more general the language that pertains to when a cost comparison study must be made, so that future changes to statutes or regulations concerning cost comparisons will not require a change to FAR coverage.

Other changes are made to make the FAR consistent with OMB Circular A-76. Minor technical and editorial changes are also made. In addition, an editorial change is made to the solicitation provision at 52.207-1, and to the prescriptive language for the solicitiation provision at 52.207-2. Paragraph (d) of the provision at 52.207-2 is also revised for clarification.

DATES: Comments should be submitted to the FAR Secretariat at the address shown below on or before August 26, 1991; to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., room 4041, Washington, DC 20405. Please cite FAR Case 91-26 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Mr. Jack O'Neill at (202) 501-3856 in reference to this FAR case. For general information, contact Ms. Beverly Fayson, FAR Secretariat, room 4041, GS Building, Washington, DC 20405, (202) 501-4755. Please cite FAR Case 91-26.

SUPPLEMENTARY INFORMATION:

A. Background

The Secretary of Defense directed that the Defense Federal Acquisition Regulation Supplement (DFARS) be streamlined and rewritten as part of the DMR Regulatory Reform initiative. This initiative entails deletion of some DFARS language, consolidation of DFARS language, movement of some DFARS language to the FAR, redefinition of policies and procedures, and editing and rewrite of the entire regulation. This particular change proposes revisions to FAR language to correct inconsistencies between FAR subpart 7.3 and OMB Circular A-76 in the area of Government Versus Contract Performance, which were discovered during review of DFARS coverage on this subject.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because it merely brings existing regulatory language in line with OMB Circular A-76, and imposes no requirements of any kind upon small entities. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments from small entities concerning the affected FAR subpart will also be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAR Case 91-26) in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping information collection requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501 *et seq.*

List of Subjects in 48 CFR Parts 7 and 52

Government procurement; Contractor versus Government Performance.

Dated: June 20, 1991.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, it is proposed that 48 CFR parts 7 and 52 be amended as set forth below:

1. The authority citation for 48 CFR parts 7 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 7—ACQUISITION PLANNING

2. Section 7.300 is revised to read as follows:

7.300 Scope of subpart.

This subpart prescribes policies and procedures for use in acquisitions of commercial or industrial products and services subject to (a) OMB Circular No. A-76 (Revised) (the Circular), Performance of Commercial Activities, and (b) the Supplement to OMB Circular No. A-76.

3. Section 7.302 is amended by revising paragraph (d) to read as follows:

7.302 General.

* * * * *

(d) Provide that, ordinarily, agencies should not incur the delay and expense of conducting cost comparisons studies when the full-time equivalent Government employees involved are fewer than those specified in law, the Circular, and implementing agency guidance. Cost comparisons may be conducted in these instances if there is reason to believe that commercial prices are unreasonable.

4. Section 7.303 is amended by revising paragraph (b)(1) and adding paragraph (b)(3) to read as follows:

7.303 Determining availability of private commercial sources.

* * * * *

(b) * * *

(1) Synopsizing the requirement in the Commerce Business Daily until a reasonable number of potential sources are identified. If necessary, synopsis shall be submitted up to three times in a 90-day period with a minimum of 30 days between notices (but, when necessary to meet an urgent requirement, this notification may be limited to a total of two notices in a 30-day period with a minimum of 15 days between them).

* * * * *

(3) If sufficient sources are not identified through synopsis or from subparagraph (b)(2) of this section, a finding that no commercial source is available may be made and the cost comparison canceled.

5. Section 7.304 is amended in the introductory text of paragraph (a) by removing the comma appearing between the words "comprehensive" and "performance"; in paragraph (b)(1) by removing from the first line the hyphen in the words "cost-comparison"; and by revising the first sentence in paragraph (c)(1) to read as follows:

7.304 Procedures.

* * * * *

(c) * * *

(1) The contracting officer shall issue a solicitation based on the performance work statement prepared in accordance with paragraph (a) of this subsection.

* * *

* * * * *

7.306 [Amended]

6a. Section 7.306 is amended by removing the hyphen from the words "cost-comparison" in the following places:

(a)(1)(i) through (a)(1)(iii);
(a)(1)(v);
(a)(2);
(a)(4);
(b) introductory text;
(b)(1)(ii);
(b)(2)(ii); and
(b)(3).

b. Paragraph (b)(3) is also amended in the last sentence by removing the words "subparagraph (1) above" and "subparagraph (2) above" and inserting in their place "subparagraph (b)(1) of this section" and "subparagraph (b)(2) of this section", respectively.

7. Section 7.307 is amended by revising paragraph (a) to read as follows:

7.307 Appeals.

(a) The Circular provides that each agency shall establish an appeals procedure for informal administrative review of the initial cost comparison result. The appeals procedure shall provide for an independent, objective review of the initial result by an official at a higher level than the official who approved that result. The purpose is to protect the rights of affected parties and to ensure that final agency determinations are fair, equitable, and in accordance with established policy.

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

8. Section 52.207–1 is amended in the clause, in paragraph (b), in the third sentence, by removing the hyphen from the words "cost-comparison" and removing the last sentence; and by revising paragraph (c) to read as follows:

52.207–1 Notice of cost comparison (sealed-bid).

* * * * *

Notice of Cost Comparison (Sealed-Bid) (Date)

* * * * *

(c) The abstract of bids, completed cost comparison form, and detailed data supporting the cost estimate for Government performance will be made available to interested parties for review _____ [*insert a number from 15 to 30, depending on the complexity of the matter (see 7.306(a)(1)(iv)*] working days, beginning with the date the documents are available to interested parties will be provided for this public review. The Government will not make a final determination either for contract or Government performance during this period. During this period, directly affected parties may file with the Contracting Officer written requests, based on specific objections, for administrative review of the cost comparison result under the agency appeals procedure. The appeals procedure shall be used only to resolve questions concerning the calculation of the cost comparison and will not apply to decisions regarding selection of one bidder in preference to another. Agency determinations under the appeals procedure shall be final.

* * * * *

9. Section 52.207–2 is amended in the clause—

a. By removing the hyphen from the words "cost-estimate" and/or "cost-comparison" in paragraph (c) introductory text, first and third sentences; and in the first sentence of paragraphs (c)(1) and (c)(2);

b. By reviewing paragraph (d) to read as follows:

52.207–2 Notice of cost comparison (negotiated).

* * * * *

Notice of Cost Comparison (Negotiated) (Date)

* * * * *

(d) During the public review period, directly affected parties may file with the Contracting Officer written requests, based on specific objections, for administrative review of the cost comparison result under the agency appeals procedure. The appeals procedure shall be used only to resolve questions concerning the calculation of the cost comparison and will not apply to questions concerning award to one offeror in preference to another. Agency determinations under the appeals procedures shall be final.

* * * * *

[FR Doc. 91–15310 Filed 6–26–91; 8:45 am]
BILLING CODE 6820–34–M

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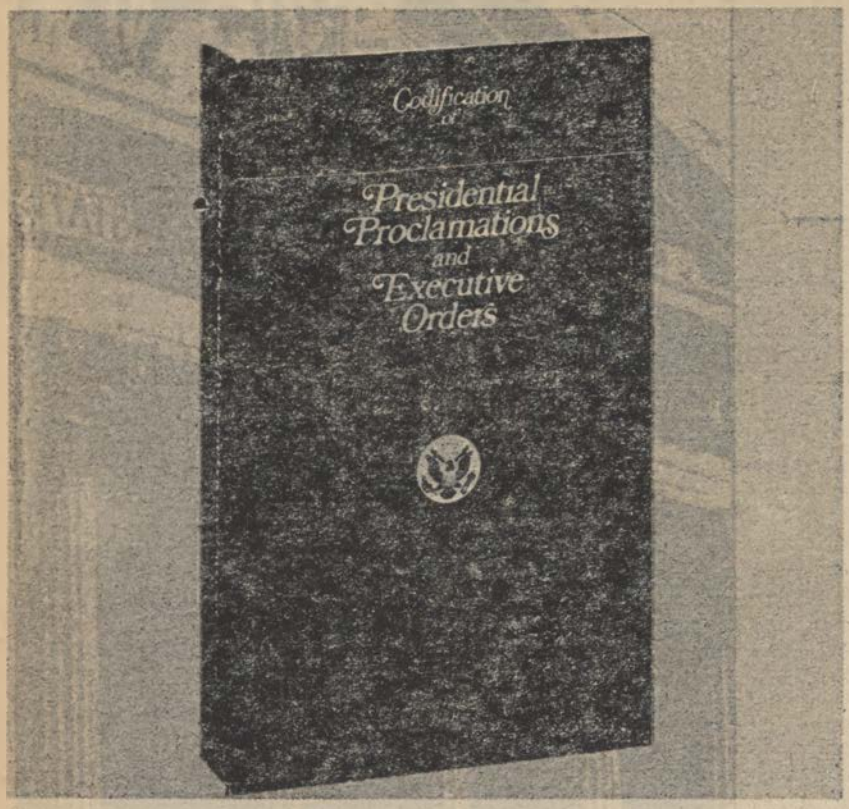
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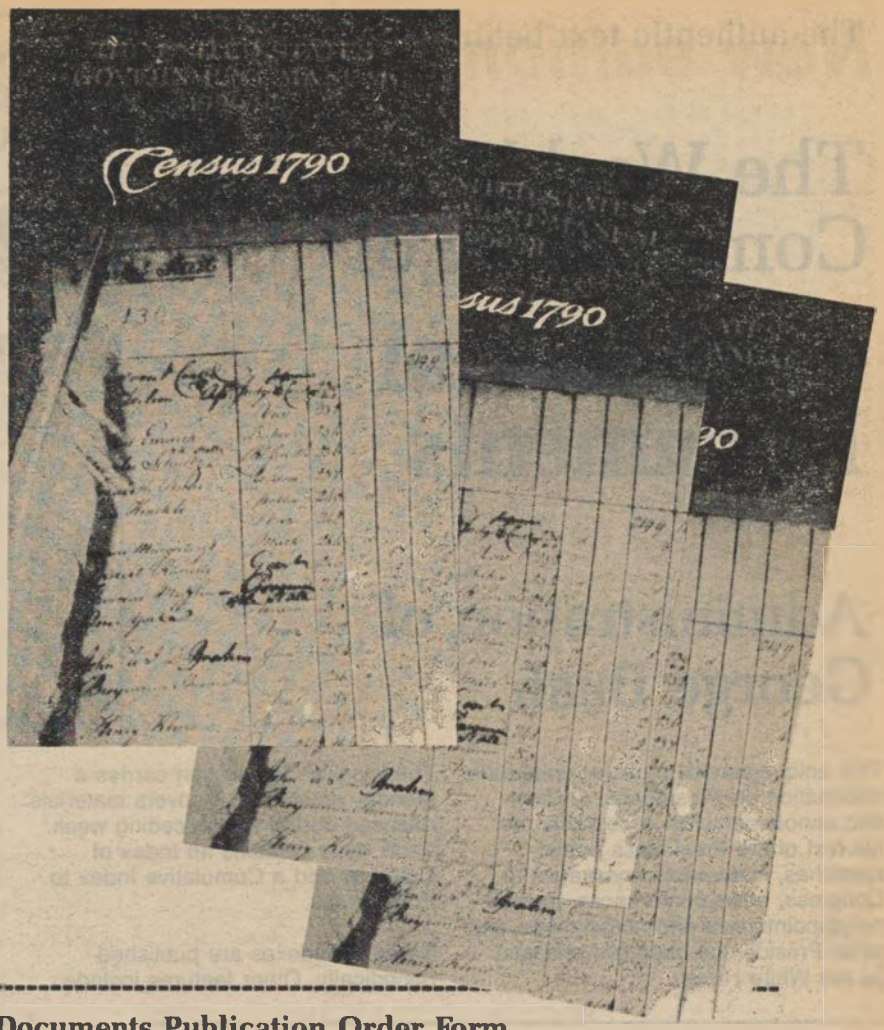
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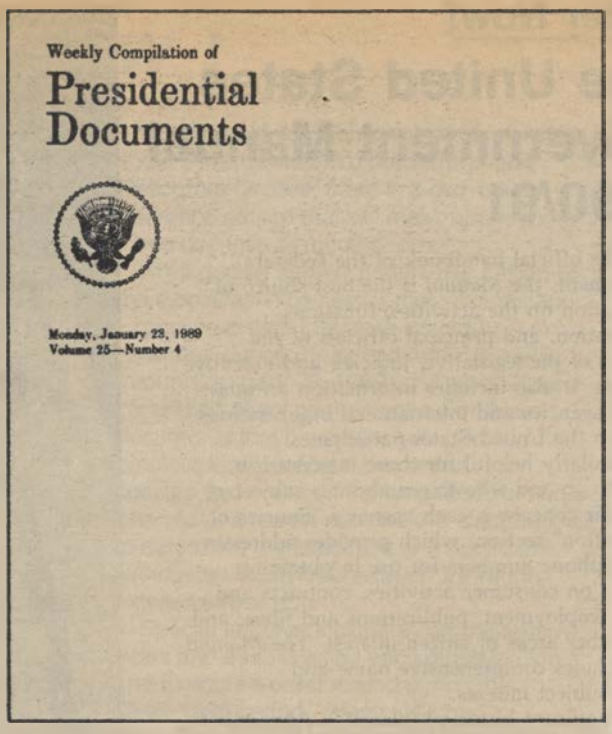
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